D-1093

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: **David T. Frederick, et al.**)	
)	
Application Serial No.: **09/086,857**)	Art Unit 3653
)	
Confirmation No.: **8855**)	
)	
Filed: **May 29, 1998**)	Patent Examiner:
)	Michael E. Butler
Title: **System For Tracking And Dispensing**)	
Medical Items From Environmentally)	
Controlled Storage Area)	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

SECOND SUPPLEMENTAL BRIEF OF APPELLANTS PURSUANT TO 37 C.F.R. § 1.192

Sir:

The Appellants hereby request reinstatement of the appeal pursuant to 37 C.F.R. §

1.193(b)(2). The Appellants hereby submit their 2nd Supplemental Appeal Brief pursuant to 37

C.F.R. § 1.192, in triplicate, concerning the above-referenced Application.

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REAL PARTY IN INTEREST

The Assignee of all right, title and interest to the above-referenced Application is

MedSelect Inc., a Delaware corporation.

RELATED APPEALS AND INTERFERENCES

Appellants believe that there are no related appeals or interferences pertaining to this

matter. Nevertheless, a claim 45 rejection may be related to Appeal A992631, as noted in the

Advisory Action dated November 7, 2000.

STATUS OF CLAIMS

Claims 1-47 are pending in the Application.

_1._   Claims 27-43 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which Appellants

regard as the invention.

_2._   Claims 1, 3, 9, 24-25, 27, 31-33, 36-38, and 44 were rejected pursuant to 35 U.S.C. §

102(e) as being anticipated by Lavigne et al. (US 5,572,873) ("Lavigne").

_3._   Claims 1, 4, 12-15, 21, 24, 27-29, 31-33, 39, and 44 were rejected pursuant to 35 U.S.C.

§ 102(b) as being anticipated by Colson, Jr. et al. (US 5,520,450) ("Colson '450").

_4._   Claim 45 was rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by Pearson

(US 5,562,232).

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_5._   Claim 46 was rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Higham et al. (US 5,805,456) ("Higham").

_6._   Claim 45 was rejected pursuant to 35 U.S.C. § 102(b) as anticipated by Colson, Jr. et al. (US 5,346,297) ("Colson '297").

_7._   Claims 1-3 and 24-26 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Lavigne.

_8._   Claims 46-47 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Higham.

_9._   Claims 45-46 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '297.

_10._   Claims 1, 3, and 24-26 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Lavigne in view of Aten et al. (US 4,674,652) ("Aten").

_11._   Claims 1-3 and 24-25 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '450 in view of Lavigne.

_12._   Claims 45-47 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Blechl et al. (US 5,377,864) ("Blechl") in view of Weinberger (US 5,408,443).

_13._   Claim 45-47 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '297 in view of Lavigne.

_14._   Claims 16-20 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Lavigne in view of Engleson et al. (US 5,781,442) ("Engleson"). Note the Additional Comments below.

15.   Claims 4-8 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '450 in view of Iwamoto et al. (US 5,575,515) ("Iwamoto").

16.   Claim 23 was rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '450 in view of Warren (US 5,225,825).

17.   Claims 9, 16-17, 20, and 22 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '450 in view of Holmes (US 6,039,467).

18.   Claims 9, 16-17, 20, 22, and 42-44 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Lavigne in view of Holmes.

19.   Claim 45 was rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Halvorson (US 4,847,764) in view of Weinberger. Note the Additional Comments below.

20.   Claims 45-47 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Halvorson in view of Weinberger.

21.   Claims 16-20 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '450 in view of Gombrich et al. (US 4,857,716) ("Gombrich").

22.   Claims 4-10 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Lavigne in view of Iwamoto.

23.   Claims 12-15 and 23 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Lavigne in view of Genest et al. (US 4,125,008) ("Genest").

These rejections were the only rejections presented in the Office Action ("Action"), dated May 6, 2004. Appellants appeal each claim rejection, inclusive.

Additional Comments

Issue #14

     The rejection set forth at the Action's paragraph number 27 (at Action page 17) is essentially a duplicate of the rejection set forth at paragraph number 19 (at Action page 12). That is, paragraph number 27 in the Action does not present a new rejection. Thus, Appellants respond to the (first) rejection (i.e., above numbered issue 14) set forth at paragraph number 19.

     The erroneous reference to Iwamoto in Action numbered paragraph 27 has been disregarded.

Issue #15

     The erroneous reference to claim 40 in Action numbered paragraph 20 has been disregarded.

Issue #19

     There appears to be an error in the Action's heading for the 35 U.S.C. § 103(a) rejection of claim 45 over Halvorson in view of Weinberger (i.e., above numbered issue 19). The body of the rejection refers to McDonald (US 5,314,243). Furthermore, claim 45 has already been rejected over Halvorson in view of Weinberger in above numbered issue 20.

     Thus, for purposes of this appeal the Appellants presume that the rejection involves McDonald instead of Weinberger. That is, (in above numbered issue 19) the rejection of sole claim 45 is being viewed as a rejection over Halvorson in view of McDonald.

Issue #21

     The erroneous reference to Iwamoto in Action numbered paragraph 27 has been disregarded.

The Appellants reserve all rights to amend their arguments, including the filing of another Supplemental Appeal Brief, if their presumptions (which were required because of the unclear Action) are incorrect.

The Offices' numerous errors are troubling, but (as shown in more detail later) are merely reflective of the numerous erroneous rejections set forth in the Action. The plural petitions decided (September 5, 2002) by the Office against the Examiner are further reflective of the impropriety of all the rejections on appeal.

Appellants apologize to the Board of Patent Appeals and Interferences for any undue burden placed before them. The Manual for Examining (e.g., MPEP § 706.02) clearly indicates that art-based rejections are to be strictly confined to using the best or most pertinent references. The MPEP makes clear that cumulative rejections (which the Action contains) are not permitted. The Action gives the appearance of trying to force Appellants into abandonment based solely on the unnecessary volume entailing the cumulative rejections. In spite of the improper Action, Appellants' right to the appeal process will not be deterred. Appellants respectfully submit that the improper cumulative rejections merely indicate the baseless nature of all the rejections in the Action, as shown in more detail later.

Appellants have continually strived to advance prosecution. Appellants again desire to proceed with their appeal (which was initially filed November 13, 2000) and prevent even further unnecessary prosecution delay by the Office. Thus, Appellants request reinstatement of their appeal pursuant to 37 C.F.R. § 1.193(b)(2).

STATUS OF AMENDMENTS

The Action of May 6, 2004 was a final rejection. No amendments to the claims were requested to be admitted after the final rejection. The Action arises out of the result of petitions decided (September 5, 2002) against the Examiner.

SUMMARY OF INVENTION

Overview of an exemplary form of the Invention

An exemplary form of the invention is directed to a system for providing medical items. The system may be used in dispensing and tracking an inventory of medical items stored in refrigerated or other environmentally controlled storage. The medical items may be used to treat patients in a hospital, clinic, or other healthcare setting. An overview of the system is shown schematically in Figure 13.

The system may include a computer (84) which is in operative connection with a data store (85). The data store includes user data representative of a plurality of authorized users. The data store also includes item data representative of a plurality of medical items, and location data representative of storage locations in which medical items are stored. A user interface may be in operative connection with the computer. A plurality of user interfaces are provided in this exemplary embodiment by data terminals (76, 98, 102) each of which include at least one input device such as a touch screen (78) or a card reader (80.)

The system may include a housing for storing medical items, such as a refrigerator (450), with a door (454). The door controls access to an interior area of the refrigerator. The interior area includes a storage location for at least one medical item. A lock module (452) may be

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attached to the refrigerator. The lock module may be in operative connection with the computer. The lock module may operate in response to at least one signal from the computer to change the condition of the lock module from a locked to an unlocked condition.

In response to a user inputting identification data through the input device, which identification data corresponds to that of an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to a medical item through the input device. The computer is operative responsive to the input of the item indicia, corresponding to a medical item stored in the interior area, to provide a signal changing the lock module to the unlocked condition. This enables the door to be opened and the medical item in the storage location to be accessed by the authorized user.

CONCISE STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

The questions (as numbered issues) presented in this appeal are:

1).   Whether Appellants' claims 27-43 are unpatentable under 35 U.S.C. § 112, second paragraph, because they fail to particularly point out and distinctly claim the subject matter which Appellants regard as the invention.

2).   Whether Appellants' claims 1, 3, 9, 24-25, 27, 31-33, 36-38, and 44 are unpatentable under 35 U.S.C. § 102(e) as being anticipated by Lavigne.

3).   Whether Appellants' claims 1, 4, 12-15, 21, 24, 27-29, 31-33, 39, and 44 are unpatentable under 35 U.S.C. § 102(b) as being anticipated by Colson '450.

4).   Whether Appellants' claim 45 is unpatentable under 35 U.S.C. § 102(b) as being anticipated by Pearson.

5). Whether Appellants' claim 46 is unpatentable under 35 U.S.C. § 102(e) as being anticipated by Higham.

6). Whether Appellants' claim 45 is unpatentable under 35 U.S.C. § 102(b) as being anticipated by Colson '297.

7). Whether Appellants' claims 1-3 and 24-26 are unpatentable under 35 U.S.C. § 103(a) over Lavigne.

8). Whether Appellants' claims 46-47 are unpatentable under 35 U.S.C. § 103(a) over Higham.

9). Whether Appellants' claims 45-46 are unpatentable under 35 U.S.C. § 103(a) over Colson '297.

10). Whether Appellants' claims 1, 3, and 24-26 are unpatentable under 35 U.S.C. § 103(a) over Lavigne in view of Aten.

11). Whether Appellants' claims 1-3 and 24-25 are unpatentable under 35 U.S.C. § 103(a) over Colson '450 in view of Lavigne.

12). Whether Appellants' claims 45-47 are unpatentable under 35 U.S.C. § 103(a) over Blechl in view of Weinberger.

13). Whether Appellants' claims 45-47 are unpatentable under 35 U.S.C. § 103(a) over Colson '297 in view of Lavigne.

14). Whether Appellants' claims 16-20 are unpatentable under 35 U.S.C. § 103(a) over Lavigne in view of Engleson.

15). Whether Appellants' claims 4-8 are unpatentable under 35 U.S.C. § 103(a) over Colson '450 in view of Iwamoto.

16). Whether Appellants' claim 23 is unpatentable under 35 U.S.C. § 103(a) over Colson '450 in view of Warren.

17). Whether Appellants' claims 9, 16-17, 20, and 22 are unpatentable under 35 U.S.C. § 103(a) over Colson '450 in view of Holmes.

18). Whether Appellants' claims 9, 16-17, 20, 22, and 42-44 are unpatentable under 35 U.S.C. § 103(a) over Lavigne in view of Holmes.

19). Whether Appellants' claim 45 is unpatentable under 35 U.S.C. § 103(a) over Halvorson in view of McDonald.

20). Whether Appellants' claims 45-47 are unpatentable under 35 U.S.C. § 103(a) over Halvorson in view of Weinberger.

21). Whether Appellants' claims 16-20 are unpatentable under 35 U.S.C. § 103(a) over Colson '450 in view of Gombrich.

22). Whether Appellants' claims 4-10 are unpatentable under 35 U.S.C. § 103(a) over Lavigne in view of Iwamoto.

23). Whether Appellants' claims 12-15 and 23 are unpatentable under 35 U.S.C. § 103(a) over Lavigne in view of Genest.

GROUPING OF CLAIMS

No groups of claims stand or fall together. Reasons are provided in the Argument section herein. The arguments presented hereafter provide reasons why each of the claims is separately patentable. Appellants present for each respective separate claim a corresponding respective separate argument as to why the claim is patentable over the rejection applied thereto. Reasons

are provided how each claim recites additional features of the invention which distinguishes the claim over every other pending claim. Reasons are further provided how each of the claims recites at least one element, combination of elements, or step not found or suggested in the applied references, which patentably distinguishes each claim.

The pending claims include five independent claims (claims 1, 24, 27, 44, and 45). All pending claims 1-47 are reproduced in the Appendix.

ARGUMENT

The Applicable Legal Standards

Anticipation pursuant to 35 U.S.C. § 102 requires that a single prior art reference contain all the elements of the claimed invention arranged in the manner recited in the claim. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

Anticipation under 35 U.S.C. § 102 requires in a single prior art disclosure, each and every element of the claimed invention arranged in a manner such that the reference would literally infringe the claims at issue if made later in time. *Lewmar Marine, Inc. v. Barient, Inc.*, 822 F.2d 744, 747, 3 USPQ2d 1766, 1768 (Fed. Cir. 1987).

Anticipation by inherency requires that the Patent Office establish that persons skilled in the art would recognize that the missing element is necessarily present in the reference. To establish inherency the Office must prove through citation to prior art that the feature alleged to be inherent is "necessarily present" in a cited reference. Inherency may not be established based on probabilities or possibilities. It is plainly improper to reject a claim on the basis of 35 U.S.C. § 102 based merely on the possibility that a particular prior art disclosure could or might be used

or operated in the manner recited in the claim. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q. 2d 1949 (Fed. Cir. 1999).

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Appellants are under no obligation to submit evidence of nonobviousness. MPEP § 2142 (Eighth Edition, August 2001; Rev. 1, Feb. 2003).

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

The evidence of record must teach or suggest the recited features. An assertion of basic knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001).

A determination of patentability must be based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

It is respectfully submitted that the Action from which this appeal is taken does not meet these burdens.

The Lavigne Reference

Lavigne discloses a carrier for holding and transporting medical items. It is designed to be carried by a medical technician or other person and to allow them to track their activity in removing medical items from the carrier. The enclosure of Lavigne includes an opening (49) with a hinged door (21) which can be moved to cover or uncover the opening (Col. 4, line 65 to Col. 5, line 2). Within the enclosure is a drawer (41). The drawer is used to hold controlled substances. To open the drawer the operator must insert a key into a key lock (42) (Col. 4, lines 41-45).

A carrier includes a controller (79) which monitors the temperature of drugs inside the carrier to be sure that temperature sensitive drugs therein are maintained within their proper temperature range. The controller also operates to record temperature conditions, as well as information concerning the identity of the person having custody of the carrier and events such as the opening of the door to access the medications in the carrier (Col. 7, line 53 - Col. 8, line 3; Col. 9, lines 6-16). In this way activities by the person in possession of the carrier as well as temperature events are recorded over a period of time.

In operation of the device of Lavigne, when an operator takes control of the carrier the operator inserts a data key into a reader (73). This data is stored to indicate the person who has

possession of the carrier (Col. 14, lines 20-27). When the person in control of the carrier wishes to administer a drug, they can open the door (21), remove the desired drug from the carrier and administer the drug to the patient. The operator also records the administration of the drug by entering a code into memory (Col. 14, lines 34-43).

The controller in the Lavigne carrier monitors the temperature of the temperature sensitive medications held therein. If the temperature goes out of range, the controller of Lavigne operates a locking solenoid (139) which operates to lock the door (21) to hold it in a closed position (Col. 11, lines 37-43). This alerts the user to the fact that the drugs in the carrier may have been subject to spoilage due to an out of temperature condition. However a user is enabled to open the door (21) through a mechanical override if the user needs to obtain access to the medications even when there has been an out of temperature condition (Col. 12, line 64 to Col. 13, line 2). Thus, the door (21) which controls access to the medical items in the carrier is always open and accessible except when the door is locked due to the occurrence of an out of temperature condition.

The Colson '450 Reference

Colson '450 discloses a cabinet system for holding items therein. Colson has a cabinet (1) with dividers which form cavities. One such subcavity (19) includes a computer (21). The computer is described as including a keyboard (23) and optionally a display means, a mouse device, and an output device such as a printer.

One of the cavities in the cabinet includes a refrigerator (101) for holding medicines which require lower storage temperatures. The various compartments, including the

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compartment holding the refrigerator are covered by doors (25). The doors can be opened to access the cavities. Each of the doors has associated therewith a locking/unlocking means (37). The locking means includes a solenoid to control the unlocking thereof.

When a user wishes to access items in a cavity behind one of the doors, the user inputs to the computer keyboard (23) information concerning the particular patient and information as to the person entering the data. The computer then causes electrical impulses to be issued that travel to a particular electric solenoid to unlock a particular door and permit access to the interior area of the cabinet behind the unlocked door (Col. 5, lines 17-27).

The Pearson Reference

The reference to Pearson is directed to an apparatus for dispensing medication. The apparatus includes a movable cart (2). The cart includes containers (8) and drawers (10) for holding medications. A suction tube (12), which is handled and operated by a nurse, is used to dispense pills and tablets from the containers (8). The nurse may also manually dispense other medication items (e.g., cream, syringe) from a drawer (10). A computer (14) has an input device such as a keyboard. The computer controls locking of the containers (8) and drawers (10), and monitors operation of the suction tube (12). After medications are loaded into the dispenser, the computer controls access to the individual compartments. The computer may correlate the time and a patient's identity to the dosages of each pill appropriate for that patient at that time in accordance with medication orders.

A nurse may input patient information and physician orders into the computer. The computer then compiles a list of medications needed for a selected period of time. A pharmacist

reviews the list and loads the proper quantities of medications into the proper containers and drawers. After the pharmacist confirms to the computer that each medication has been properly loaded, then the cart is ready to be used by a nurse to dispense medications to multiple patients.

During dispenser operations the cart may be rolled to several different patient locations. A nurse enters a password to be authorized to use the medication dispenser. The nurse also inputs patient identifying information. The computer unlocks each appropriate container (8) or drawer (10) which holds medication which that particular patient is scheduled to receive at that time. A signal light (22) for each unlocked container (8) or drawer (10) may be changed to green, making it easy for the nurse to identify the proper medication compartment. If the medication is in one of the containers (8), then the nurse uses the suction tube (12) to withdraw the medication. If the medication is in one of the drawers (10), then the nurse manually withdraws the needed item.

The Higham Reference

The reference to Higham is directed to a device and method for providing access to items to be dispensed. The device includes a dispenser unit (28). The dispenser unit includes an enclosure with a plurality of drawers (32) slidably disposed with a frame (34). The drawers are provided with receptacles (36) for holding items. A row of buttons (30) is common to the drawers. As shown in Figure 2 the six buttons (30) correspond to the six receptacles (36) in each drawer (32). Each drawer has a sensor (40) for sensing when the drawer has been pulled out from the frame (34). The sensors (40) and buttons (30) are connected to a processor. When a particular drawer (32) (e.g., Figure 2, drawer number 6) is opened, the associated sensor (40)

sends a signal to the processor indicating access to that particular drawer (32). The processor

then sends a signal to set the buttons (30) to correspond to the receptacles (36) of that particular

withdrawn drawer (32). An item is manually placed into or removed from a particular receptacle

(36) (e.g., Figure 2, receptacle number 2 in drawer number 6) of the withdrawn drawer (32). The

button (30) having the same identification symbol (38) (e.g., the number 2) as the accessed

receptacle (36) is manually touched to record the action in the processor. Inventory is maintained

by using the associated buttons (30). Particularly note Col. 11, lines 3-41.

The Colson '297 Reference

The reference to Colson '297 is directed to an auxiliary storage and dispensing unit. The

unit is for use in connection with a supply and medication dispenser station. In operation,

information concerning the needed patient item and the entering party, inputted into a keyboard

(65) results in a cabinet door (19) being unlocked (Col. 4, lines 39-53). Lamps (109) are located

in the interior of the cabinet (3). The electric lighting provides illumination to help a user locate

stored items (Col. 6, lines 57-68).

The Aten Reference

The reference to Aten is directed to a controlled dispensing device for use by a drug

therapist. A field unit is loaded with medication containers in a predetermined sequence. A

program of dosing times is stored in a memory of the field unit. The field unit permits

dispensing of containers only in accordance with the predefined schedule.

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The Blechl Reference

The reference to Blechl is directed to a drug dispenser device (10). As shown in Figure 1, the dispenser device includes a drawer (28) which provides access to the dispensed medicines. When a user designates a type and quantity of desired medications into the input unit (248) of the control device (300), the medications drop from their cartridges (90) into the drawer (28). The input unit may include a user interface screen (30) having touch sensitive features in communication with a microprocessing means (26). The top of the device (10) is provided with a medication access door (40) permitting a designated individual to stock the device.

As shown in Figure 2, the device (10) includes a medication storage area. A printed circuit board (50) has apertures (52, 54) allowing free fall of drug containers to the drawer (28). The board (50) includes female electrical connectors (56). Figures 3, 4, and 11 show a dispenser (60) made to be inserted into the medication storage area. Offset from the bottom of the dispenser (60) is a support lip (76) which rests against the printed circuit board (50) to support the dispenser (60). Extending downward from the support lip (76) is a male electrical connector (78) adapted to connect with a female electrical connector (56). A solenoid (68) is provided on the exterior of the dispenser housing (62). The solenoid (68) includes a piston (70) which is operatively connected to rotating linkage (72) which is contained on a pivot rod (74). The pivot rod (74) is secured to an arm (82) having a stepped portion (84). Actuation of the solenoid (68) causes rotation of pivot rod (74). Note Figures 10, 15, 17, and 18.

Figures 5-9 show a cartridge (90) for insertion into the dispenser (60). The cartridge (90) is sized to slide into the interior space (64) of the dispenser (60). Stacked medication containers (108) are contained in the interior storage space (102) of the cartridge (90). A retaining member

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(110) prevents the medication containers (108) from falling out the open bottom (100) of the cartridge (90).

Upon insertion of the cartridge (90) into the dispenser (60), the user removes the retaining member (110) allowing free fall of the medication containers (108) to a dispensing platform (86) of the dispenser (60). The dispensing platform (86) has an aperture (88). Upon actuation of the solenoid (68), the stepped portion (84) urges the medication container (108) resting on the dispensing platform (86) out the aperture (88) where gravity induces it to fall to the drawer (28).

The Weinberger Reference

The reference to Weinberger is directed to a programmable medication dispensing system. The system is used by self-administering patients such as home-care patients. The system includes a prescribing data entry station for use by a physician. The physician operates the data entry station to store prescription information in a portable prescribing module. The system also includes a dispensing data entry station for use by a pharmacist. The pharmacist stores dispensing information in a portable dispensing data storage module. The system includes a medication dispenser which accepts the portable modules. The dispenser operates in response to the information in the dispensing data storage module to remind the patient to take their medications and to make the medications available to the patient. The information stored in the prescribing module is used to instruct the patient on use of medication in the dispenser in accordance with the information input by the physician.

The Engleson Reference

The reference to Engleson is directed to a care management system (30) in which the management of the administration of care for patients is automated. Hospital information systems are monitored and the information from those systems is used in verifying the administrations of care to patients. The care management system monitors ongoing administrations (40) for progress and automatically updates records and provides alarms when necessary. The care management system is modular in nature but is fully integrated among its modules. Particular lists of data, such as the termination times of all ongoing infusions, provide hospital staff current information for increased accuracy and efficiency in planning. Features include the automatic provision of infusion parameters to pumps for accurate and efficient configuration of the pump, and providing an alarm when an unscheduled suspension of an infusion exceeds a predetermined length of time.

The Iwamoto Reference

The reference to Iwamoto is directed to a door locking apparatus suitable for locking and unlocking a door (2) of a dispenser and a case (1) thereof. The apparatus includes a door lock mechanism (3) situated between the door and the case for latching the door at a locked position, a solenoid (4) mounted inside the door for releasing the door lock mechanism, a receiver (6) mounted inside the door and connected to the solenoid, and a transmitter (5) for sending an ID signal from an outside of the door to the receiver. When the receiver receives the ID signal from the transmitter, the solenoid actuates to release the door lock mechanism.

The Warren Reference

The reference to Warren is directed to an electronic interlock for locking a file cabinet (10, 100) and for limiting the number of drawers (14, 114) to be accessed at any given time. An input keyboard (20, 120) receives an input code to be compared with a prestored access code. If the codes do not match, an unlock signal is not produced. If the input code matches the access code, a processor (28, 148) renders the storage assembly (10, 110) accessible. The processor (28, 128) will receive a drawer selection number from the input keyboard (20, 120) user and will unlock a lock (16, 116) associated with the selected drawer (14, 114). Sensors (34, 134) sense the position of the drawers (14, 114) and disable the processor (28, 128) when one of the drawers (14, 114) is in the open position.

The Holmes Reference

The reference to Holmes is directed to a dispensing unit (10) which includes a cabinet (12) having a plurality of drawers (14). A plurality of light sources (70) are attached to a bottom of each of the drawers. A liner (34) is removably held within each of the drawers above the light sources. Further, a plurality of adjustable dividers (38, 57) are provided to divide the liner into a plurality of bins (36) for holding items. A processor having a memory for storing a list of items which are held within the bins, and an entry device (20) for entering a request for item removal is further provided. A plurality of light indicators (40) are operably attached to the dividers and are arranged such that each light indicator is aligned with a corresponding light source (70).

The Halvorson Reference

The reference to Halvorson is directed to a system for dispensing medications in a health care institution. The system includes a computer system (10) connected to control a plurality of remote medication dispensers (32). Pharmacy terminals (20) are provided for entering medication orders, and software in the computer system controls the dispensers (32) to dispense medications according to the orders specified. The system includes support for dispensing medications from floor stocks. Medications are administered in accordance with instructions from the computer system generated in accordance with said orders.

The McDonald Reference

The reference to McDonald is directed to a portable nursing center. The nursing center has a plurality of selectively locked patient drawers (11) carried in a housing (1). Each of the drawers are movable between open and closed positions. Each drawer is sized and configured for holding pharmaceutical items which have been prescribed for a specific patient. At least one on demand drawer (12) is also carried by the housing (1) to hold other pharmaceutical and nursing items for use on an as needed basis. A nurse enters predetermined access data causing the unit to selectively unlock (40) the appropriate patient drawer or the on demand drawer while maintaining the other drawers in a locked condition. Whenever the patient is treated, the nurse enters or receives information pertinent to that treatment. The unit has a transmitter/receiver (34) to transmit and receive such patient information.

The Gombrich Reference

Gombrich is directed to a patient identification system for relating items with patients and ensuring that an identified item corresponds to an identified patient. The patient identification system includes a computer system (42) interconnected to a plurality of remote terminals (62) by conventional telephone wiring (66, 70). The patient identification system further including a portable bar code reading device (48) including a bar code wand (120), an LCD display (116), and a key pad (114). The portable bar code reading device (48) communicates via RF transmission with an RF/PLC modem (60). The bar code reading device (48) is utilized to read a patient's unique bar codes (50) on a patient's identification bracelet (52), bar codes (51) on labels (53) attached to various items in the hospital relating the item to a specific patient, and bar codes (49) on item labels (47), whereby such items can be automatically correlated to a specific patient and checks performed at the computer system (42) to ensure that the item properly corresponds to the identified patient.

The Genest Reference

The reference to Genest is directed to a unitary self-contained electrically operated lock having a latch wheel (38) manually releasably rotatable from a first side of the lock housing (30) by pulling on a handle (114) from a first side and releasably rotatable from a second side of the housing only in response to insertion of a data combination card (14) carrying an appropriate code. That is, the lock is actuable in response to both insertion of an appropriate data combination code from a first side of the lock and movement of a handle from a second side of the lock (Col. 1, lines 65-68). The latch wheel is mounted outside the housing on a rotatable

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shaft (44) extending into the housing. A ratchet wheel (84) mounted inside the lock housing on the rotatable shaft rotates with the latch wheel. A pawl (110) normally engaged with the ratchet wheel allows the latch wheel to rotate into locking engagement with a keeper (46) mounted in a door jamb while preventing the latch wheel from rotating out of engagement with the keeper until the pawl is retracted. A trip plate (134) secured to the handle (114) disengages the pawl (110) from the ratchet wheel (84) whenever the handle is manually retracted. Upon insertion of a correctly coded data combination card, a solenoid (18) or motor mounted within the housing is activated to retract the pawl from engagement with the ratchet wheel. The lock has application to a hotel room (Col. 1, lines 16-22).

Several Of The References Do Not Constitute Prior Art

Appellants respectfully submit that Engleson, Iwamoto, Holmes, Lavigne, Colson '450, Pearson, and Higham do not constitute prior art against at least claims 24 and 45. As shown in more detail herein, the present application is entitled to the filing date of December 16, 1994 via priority to US patent 5,790,409. Furthermore, via the accepted 37 CFR 1.131 Declaration, claims 24 and 45 are entitled to a critical date prior to March 7, 1994.

The 37 CFR 1.131 Declaration

Appellants submitted a Declaration on September 27, 2000. The Declaration was entered and deemed to effectively swear back to a date prior to March 7, 1994 for at least claims 24 and 45, as indicated in the Advisory Action dated November 7, 2000 and the Notification dated April 9, 2001. Thus, March 7, 1994 is the critical date of at least claims 24 and 45 of the invention.

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<u>Considering obvious differences between the claims and the Declaration showing</u>

It is further noted in light of MPEP § 715.02 that "Even if applicant's 37 CFR 1.131 affidavit is not fully commensurate with the rejected claim, the applicant can still overcome the rejection by showing that the differences between the claimed invention and the showing under 37 CFR 1.131 would have been obvious to one of ordinary skill in the art, in view of applicant's 37 CFR 1.131 evidence, prior to the effective date of the references. Such evidence is sufficient because applicant's possession of what is shown carries with it possession of variations and adaptations which would have been obvious, at the same time, to one of ordinary skill in the art." Accordingly, Appellants respectfully submit that even if the Declaration and attached documentation were not fully commensurate with the rejected claims, the Office still must consider whether Appellants had reduced to practice a novel system which would have rendered the claimed invention (claims 24 and 45) obvious to one of ordinary skill in the art.

It is respectfully submitted that the record indicates that the Office itself considers the features to be obvious to one of ordinary skill in the art. Evidence of this fact is demonstrated by the Action's own effort to render the features as obvious in the Action's 35 U.S.C. § 103(a) type rejections of claims 24 and 45. (Contrarily, if this feature is not obvious, then the 35 U.S.C. § 103(a) type rejections of claims 24 and 45 are moot.)

In conclusion, the Declaration effectively swore back to a date prior to March 7, 1994 for at least claims 24 and 45. Declaration was deemed effective by the Office. Thus, a date prior to March 7, 1994 is the critical date of at least claims 24 and 45.

<u>Parent Applications</u>

The present application is a continuation-in-part (CIP) application of application 08/927,593 filed September 11, 1997. Application 08/927,593 is a CIP application of application

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08/361,783 (now Patent 5,790,409) filed December 16, 1994. In addition, numerous elements of pending claims are disclosed in earlier applications from which this Application claims priority, including Application Serial Number 08/009,055 filed January 25, 1993 (now U.S. Patent 5,404,384) and Serial Number 08/186,285 filed January 25, 1994 (now U.S. Patent 5,533,079).

Claims find support in parent patent 5,790,409

Claim 45 is reproduced below to show that the recited subject matter has support in parent Patent 5,790,409 (filed December 16, 1994). Claim 24 is similar in scope to claim 45. The claim 45 is reproduced having referenced column and line locations corresponding to Patent 5,790,409 inserted therein. Of course, it should be understood that these referenced locations are for discussion purposes only and that the claim is not limited to the embodiment presented. No unnecessary limitations are to be implied from using such references in the present claim for purposes of illustration. The present invention is not limited to the details, features and relationships shown or described in the prior Patent 5,790,409 or the pending application.

Claim 45   A system for providing medical items comprising:

(Col. 3, lines 20-63) a computer (84; 86), wherein the computer is in operative connection with the data store (Col. 3, lines 22-26; Col. 10, lines 31-34), wherein the data store includes user data representative of a plurality of authorized users (Col. 3, lines 22-26; Col. 8, lines 43-58), item data representative of a plurality of medical items (Col. 3, lines 22-26; Col. 4, lines 8-12; Col. 9, lines 20-36), and location data (Col. 3, lines 22-26; Col. 9, lines 20-36) representative of storage locations in which the medical items are stored;

a user interface (Col. 3, lines 20-22; Col. 8, lines 15-17) in operative connection

with the computer, wherein the interface includes at least one input device (Col. 9,

lines 42-47; Col. 8, lines 15-24);

(Col. 16, lines 11-33) a housing (Col. 16, lines 17-19), wherein a storage location

for at least one medical item is located in an interior area of the housing, the

housing including a door (96), wherein access to the storage location is controlled

by opening and closing the door (Col. 16, lines 19-23);

a lock (Col. 16, lines 19-23) in operative connection with the housing, wherein the

lock is in operative connection with the computer (Col. 16, lines 53-57, 24-33),

and wherein the lock is operative responsive to at least one signal from the

computer to change the lock from a locked to an unlocked condition (Col. 16,

lines 53-57), wherein in the locked condition the door is prevented from being

opened and in the unlocked condition the door is enabled to be opened;

wherein responsive to a user inputting through the at least one input device

identification data (Col. 8, lines 28-42) corresponding to data for an authorized

user stored in the data store (Col. 8, lines 28-42), the computer enables the user to

input item indicia corresponding to a medical item through the at least one input

device (Col. 17, lines 1-12, 49-54; Col. 8, lines 9-17; Col. 16, lines 46-57), and

wherein the computer is operative responsive to input of the item indicia to output

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the at least one signal changing the lock to the unlocked condition (Col. 16, lines 26-30, 54-57; Col. 17, lines 9-13).

As shown by Appellants, each recited feature in at least pending claim 45 (and claim 24) has basis in Patent 5,790,409 (filed December 16, 1994), from which the present application claims priority. Furthermore, in view of the accepted Declaration, at least claims 24 and 45 are entitled to a critical date prior to March 7, 1994.

Engleson Does Not Constitute Prior Art

Engleson's filing date (May 15, 1995) is later than both the filing date (December 16, 1994) of parent patent 5,790,409 and the critical date prior to March 7, 1994. Thus, Engleson cannot constitute prior art against at least claims 24 and 45.

Iwamoto Does Not Constitute Prior Art

Iwamoto's filing date (February 3, 1995) is later than both the filing date (December 16, 1994) of parent patent 5,790,409 and the critical date prior to March 7, 1994. Thus, Iwamoto cannot constitute prior art against at least claims 24 and 45.

Holmes Does Not Constitute Prior Art

Holmes' filing date (December 5, 1996) is later than both the filing date (December 16, 1994) of parent patent 5,790,409 and the critical date prior to March 7, 1994. Thus, Holmes cannot constitute prior art against at least claims 24 and 45.

Lavigne Does Not Constitute Prior Art

Lavigne's filing date (March 2, 1995) is later than both the filing date (December 16, 1994) of parent patent 5,790,409 and the critical date prior to March 7, 1994. Thus, Lavigne cannot constitute prior art against at least claims 24 and 45.

Furthermore, the Office has admitted (in the Advisory Action dated November 7, 2000) that "The affidavit was effective in overcoming the rejections to claim 45 in view of Lavigne & Lavigne/Aten."

Colson '450 Does Not Constitute Prior Art

Colson '450 has an effective filing date of August 2, 1994, which is later than Appellants' critical date (prior to March 7, 1994). Thus, Colson '450 cannot constitute prior art against at least claims 24 and 45.

Colson '450 was granted on a CIP application of Colson '297. Colson '297 does not include Appellants' recited claim features for which Colson '450 was applied in the Action. Specifically and by way of example and without limitation, Colson '297 (explained in more detail hereinafter with regard to the 35 U.S.C. § 102(b) rejection of claim 45) does not disclose or suggest a data store including "data representative of a plurality of authorized users", or "data representative of a plurality of medical items", or "data representative of storage locations in which the medical items are stored", or the input of "identification data corresponding to data for an authorized user stored in the data store", or enabling a "user to input item indicia" in response thereto (e.g., claim 45). Colson '297 does not include the features for which the newer Colson '450 is being relied upon. Even if it were somehow possible for Colson '450 to have included the

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recited features, Colson '450 is not entitled to the earlier filing date of Colson '297 for the recited features.

Furthermore, because Colson '297 does not disclose or suggest the recited features, Appellants do not need to swear behind the Colson '297 reference in order to establish patentability of the present invention.

Pearson Does Not Constitute Prior Art

For purposes of this appeal, Pearson at best has an effective filing date of March 7, 1994, which is later than the date to which Appellants are entitled (prior to March 7, 1994). Thus, Pearson cannot constitute prior art against at least claims 24 and 45.

The actual filing date of the Pearson reference is February 12, 1996. Pearson claims priority to several earlier applications. Pearson is a continuation of Pearson 5,490,610 (filed April 13, 1995), which is a continuation of abandoned Application Serial Number 206,877 (filed March 7, 1994), which is a CIP of Pearson (US 5,292,029) ("Pearson '029).

However, it is respectfully submitted that Pearson can claim a priority date no earlier than March 7, 1994, which is the filing date of Pearson's Application Serial Number 206,877. This is because Application 206,877 is a CIP of Pearson '029. Thus, March 7, 1994 is the date in which Application 206,877 (and Pearson) relied on new subject matter (not found in Pearson '029) to support the invention therein. This new matter was critical to the issued Pearson. Thus, at best, March 7, 1994 is the critical reference date of Pearson.

As evidenced by the lack of a Pearson '029 rejection in the Action, by inference the Office admits that Pearson '029 does not disclose the features that were considered pertinent to

the pending claims. Specifically and by way of example and without limitation, Pearson '029 does not disclose or suggest a "data store" including "data representative of a plurality of authorized users", or the input of "identification data corresponding to data for an authorized user stored in the data store", or enabling a "user to input item indicia" in response thereto (e.g., claim 45). There is no indication that Pearson '029 includes a "data store" in the manner recited. Nor does Pearson '029 disclose determining that the user is an authorized user. There is no indication that Pearson '029 is concerned with input of identification data corresponding to data for an authorized user stored in the data store. In Pearson '029 the nurse (user) merely inputs the patient's ID into the keyboard (Col. 5, lines 16-17) during operation to obtain the medication. It is respectfully submitted that Pearson '029 does not disclose the recited features. Pearson '029 does not include the features for which the newer Pearson is being relied upon. Even if it were somehow possible for Pearson to have included the recited features, Pearson is not entitled to the earlier filing date of Pearson '029 for these recited features.

Higham Does Not Constitute Prior Art

Higham was filed July 14, 1994. However, Appellants' entitled critical date (prior to March 7, 1994) is earlier than July 14, 1994. Thus, Higham cannot constitute prior art against at least claims 24 and 45.

Furthermore, the Office has admitted (in the Advisory Action dated November 7, 2000) that the Declaration was "effective in overcoming the 102(e) based anticipatory and obviousness rejections of claim 45 as evidenced by Higham." The Notification dated April 9, 2001 confirms that claim 45 is patentable over Higham. It follows that claims 46-47, which depend on claim 45, are also patentable over Higham.

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Numerous Rejections Are Overcome By Appellants' Prior Date

As previously shown, the references of Lavigne, Colson '450, Pearson, and Higham do not constitute prior art against the subject matter in at least claims 24 and 45.

35 U.S.C. § 102 rejections are obviated

The 35 U.S.C. § 102 rejections of claim 24 and/or claim 45 based on any of these references are obviated. These rejections include:

Issue #2 rejections based on Lavigne.

Issue #3 rejections based on Colson '450.

Issue #4 rejection based on Pearson.

Issue #5 rejection based on Higham.

35 U.S.C. § 103 rejections based on sworn behind reference are obviated

The Patent Office Rules provide that when an obviousness rejection is based on one or more references and the applicant swears behind at least one reference, then the obviousness rejection is overcome. MPEP § 715.02. As a result, the following 35 U.S.C. § 103 rejections of at least claims 24 and 45 (and other claims that include the subject matter thereof) are obviated because Appellants have sworn behind at least one of the references:

Rejections based on Lavigne in Issues #7, #10, #11, #13.

Rejections based on Colson '450 in Issue #11.

If the independent claim is nonobvious then the dependent claim is also nonobvious

Furthermore, "If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious" (MPEP 2143.03). *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988). Appellants have shown independent claims 24 and 45 to be nonobvious with regard

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to the references to Lavigne, Colson '450, Pearson, and Higham. Thus, any rejection of claims 24-26 and 45-47 involving either of these references is also invalid. That is, the reference rejections of other claims that also include the subject matter of claim 24 or 45 are likewise invalid. These obviated rejections are as follows:

Rejections based on Lavigne in Issues #7, #10, #11, #13.

Rejections based on Colson '450 in Issue #11.

Rejections based on Higham in Issue #8.

Furthermore, the rejections involving either Higham or Lavigne in relation to claim 45 were overcome by the Declaration as indicated in the Advisory Action dated November 7, 2000, and confirmed in the Notification dated April 9, 2001. It follows that claims 45-47 are patentable over all rejections involving either Higham or Lavigne.

Conclusion of Critical Date Discussion

For the reasons previously discussed, each of Engleson, Iwamoto, Holmes, Lavigne, Colson '450, Pearson, and Higham do not constitute prior art in relation to at least claims 24-26 and 45-47. Thus, Appellants request that the applicable rejections be withdrawn.

(ii)   35 U.S.C. § 112, Second Paragraph

(Issue #1)

Claims 27-43 have been rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which Appellants regard as the invention. The Appellants respectfully traverse the rejections. The rejections are specifically directed to claims 27, 31, and 36.

Claim 27

The Action alleges insufficient basis for "the determination that the medical item is stored in the interior area." Appellants respectfully disagree. In reviewing a claim for compliance with 35 U.S.C. § 112, second paragraph, the Office must consider the claim as a whole. Appellants respectfully submit that the Office has not considered the claim as a whole.

Support for the language "the determination that the medical item is stored in the interior area" recited in the "generating" step can be found in the "determining" step. The "determining" step recites "determining with a computer in operative connection with the data store, the lock module and the input device, that the type of medical item corresponding to the input is stored in the interior area." That is, the "determining" step is directed to determining . . . that the . . . medical item . . . is stored in the interior area. The "generating" step recites "generating a signal with the computer responsive to the determination that the medical item is stored in the interior area." One skilled in the art of patent prosecution would understand that "the determination" refers to the "determining." Claim 27 is not indefinite, but meets the requirements of 35 U.S.C. § 112, second paragraph.

Claim 31

The Action alleges that there are a plurality of "other locations" with no way of distinguishing which one is the other. Appellants respectfully disagree. Appellants respectfully decline to limit the claim to a single "other location."

Claim 27 recites a "placing" step including "placing a medical item in the interior area of the refrigerator." Claim 27 further recites a "storing" step including "storing in a data store data representative of a type associated with the medical item placed in the interior area." Claim 31

depends from claim 27. Claim 31 recites that the placing step further includes placing medical items in a plurality of storage locations, at least one of the locations being in the interior area and at least one other location being outside the interior area." Claim 31 further recites that the storing step includes storing data representative of the types of medical items stored respectively in the location in the interior area and in the other location. Clearly, the "other location" is outside the interior area. Thus, the allegation of indefiniteness is unfounded. Claim 31 complies with the requirements of 35 U.S.C. § 112, second paragraph.

Claim 36

The Action alleges that it is not apparent how the door controls the access. Apparently the Office does not understand how a refrigerator door controls access to the interior area of a refrigerator. Claim 36 depends from claim 27. Claim 36 recites that "access to the interior area is controlled by a refrigerator door." That is, access to the interior area of the refrigerator (claim 27) is controlled by the refrigerator door. Claim 36 further recites "opening the refrigerator door, whereby the interior area is accessible." That is, when the door is open, then the interior area of the refrigerator is accessible. In other words, entry to the interior of the refrigerator is controlled by the position of the refrigerator door. Even infants skilled with the knowledge of how to open a refrigerator door gain the understanding that it is the door which controls access to the interior of the refrigerator. Claim 36 meets the requirements of 35 U.S.C. § 112, second paragraph.

In conclusion, the claims 27-43 meet the requirements of 35 U.S.C. § 112, second paragraph. Thus, it is respectfully submitted that the 35 U.S.C. § 112, second paragraph, rejections are improper and should be withdrawn.

(iii)   35 U.S.C. § 102

These rejections are respectfully traversed. Appellants traverse these rejections on the grounds that the applied reference does not contain all the elements of the claimed invention arranged in the manner recited in the claims. The features recited in Appellants' claims patentably distinguish over the applied reference.

The Pending Claims Are Not Anticipated By Lavigne

(Issue #2)

Claims 1, 3, 9, 24-25, 27, 31-33, 36-38, and 44 were rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Lavigne. These rejections are respectfully traversed.

The Appellants would like to point out that the Action's reliance on the 35 U.S.C. § 103(a) rejection of claims 1, 3, and 24-25 as obvious over Lavigne (Issue #7) is evidence that Lavigne alone does not anticipate claims 1, 3, and 24-25. Likewise, the Action's additional reliance on Aten for the 35 U.S.C. § 103(a) rejection of claims 1, 3, and 24-25 as obvious over Lavigne in view of Aten (Issue #10) is even further evidence that Lavigne alone does not anticipate claims 1, 3, and 24-25.

Claim 1

Again, the Action's reliance on 35 U.S.C. § 103(a) rejections of claim 1 with Lavigne (Issues #7 and #10) is evidence that Lavigne alone does not anticipate claim 1.

Claim 1 is an independent claim which is specifically directed to a "system for providing medical items." The claim specifically recites that "the lock module is operative responsive to a signal from the computer to change the lock module from a locked to an unlocked condition."

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The claim further recites that "the computer is operative responsive to input of the item indicia to output the signal changing the lock module to the unlocked condition."

Appellants respectfully submit that Lavigne does not disclose the recited features and relationships. The Action alleges that Lavigne discloses a "lock responsive to the computer (col. 11 L 39-43)"; "the computer operative to output a signal which changes the lock (col. 11, L 39-43; col. 8, L 59-62)"; and that the "computer is operative responsive to input of the item indicia to unlock the module (col. 8, L 24-30; col. 8 L 58-59)." The Appellants respectfully disagree.

In Lavigne, when the person in control of the carrier wishes to administer a drug, they can open the door (21), open a drawer (37, 41, 43), remove the desired drug from the carrier, and then administer the drug to the patient (Col. 14, lines 34-45). The operator also records the administration of the drug by entering a code into memory. The controller in the Lavigne carrier monitors the temperature of the temperature sensitive medications held therein. If the temperature goes out of range, the controller in Lavigne operates a locking solenoid (139) which operates to lock the door (21) and hold it in a closed position (Col. 11, lines 37-43; Col. 7, lines 24-26). This alerts the user to the fact that the drugs in the carrier may have been subject to spoilage due to an out of temperature condition. An out of temperature condition (e.g., locked door 21) typically can only be cleared by the use of a pharmacist key (Col. 12, lines 60-63) which also resets the controls (Col. 11, lines 3-12). However, a user is enabled to open the door (21) through a mechanical override if the user needs to obtain access to the medications even when there has been an out of temperature condition (Col. 12, line 64 to Col. 13, line 2).

Appellants respectfully submit that Lavigne does not disclose using a computer to change a lock module from a locked to an unlocked condition. Claim 1 recites that "the lock module is

operative responsive to a signal from the computer to change the lock module from a locked to an unlocked condition." Lavigne, at best, is only capable of locking the door (21). The door is unlocked by use of a pharmacist key. Hence, Lavigne does not disclose using a computer to unlock a lock module.

Appellants respectfully submit that Lavigne also does not disclose that a "computer is operative responsive to input of the item indicia to output the signal changing the lock module to the unlocked condition." Lavigne does not disclose using a computer, which responds to inputted data, to output a signal to change a lock module from a locked condition to an unlocked condition. In Lavigne, the door (21) is unlocked by use of a pharmacist key, not by a computer. It follows that Lavigne's door (21) is not unlocked by a computer in response to inputted data.

Furthermore, nothing in Lavigne compares "identification data" input by a user to data stored in a data store. The memory on the Lavigne carrier holds information corresponding to the person having possession of the carrier at any given time. However there is no teaching in Lavigne that the information input concerning the person having custody of the carrier is compared to a listing of "authorized users."

Claim 1 further specifically recites that responsive to the input of identification data corresponding to an authorized user, a user is enabled to input data corresponding to a medical item. Again, nothing in Lavigne teaches that a user is enabled to input indicia corresponding to a medical item responsive to the input of identification information corresponding to an authorized user in a database.

Additionally, claim 1 specifically recites that responsive to the input of the medical item indicia (which activity is enabled when the identification data input corresponds to an authorized

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user), the computer is caused to output a signal, which signal changes the lock module controlling the door of the refrigerator to an unlocked condition. Nothing in Lavigne teaches controlling a lock to open the door (21) in response to either medical item indicia or identification data corresponding to an authorized user. As Lavigne makes amply clear, the door (21) of his medication carrier is always unlocked except in circumstances when an out of range temperature condition has been sensed, in which case the door will lock because a temperature violation could have damaged the medications (see Col. 11, lines 37-43).

It is respectfully submitted that claim 1 recites numerous features and relationships which are absent in Lavigne. Thus, Lavigne does not anticipate the claim. For these reasons it is respectfully submitted that claim 1 as well as all the claims that depend therefrom should be allowed.

Claim 3

Claim 3 depends from claim 1 and further recites that "the lock module further comprises a door sensor, wherein the door sensor is operative to generate an open signal responsive to opening the door, and wherein the computer is operative responsive to the open signal to change the lock module to the locked condition, wherein when the door is next returned to a closed condition the door is held therein."

Appellants respectfully submit that Lavigne does not disclose a computer operative responsive to an open door signal to change a lock module to a locked condition. In Lavigne, if the temperature goes out of range, the controller of Lavigne operates a locking solenoid (139) which operates to lock the door (21) in a closed position (Col. 11, lines 37-43; Col. 7, lines 24-26). That is, the controller of Lavigne operates the locking solenoid (139) based on sensing

temperature conditions, not on sensing whether the door was opened. In Lavigne the door (21) may be opened many times without initiating the locking solenoid (139) (Col. 9, lines 7-10; Col. 14, lines 34-37; Col. 12, lines 15-18).

The Lavigne system senses the opening of a door to record an event in memory. However, the sensing of the door opening in no way causes a lock to change its condition so that when the door of the Lavigne carrier is thereafter closed, it is held closed and locked. The portion of the Lavigne reference cited against claim 3 in the Action (Col. 6, lines 47-56) only indicates that sensors are included for sensing when drawers of the Lavigne carrier have been opened. Nothing in Lavigne discloses that in response to sensing the opening of a drawer, a lock condition is changed so that the door will be locked the next time it is closed, as is specifically recited in claim 3. Lavigne does not anticipate the claim. Therefore, it is respectfully submitted that the 35 U.S.C. § 102 rejection should be withdrawn.

Claim 9

The Action's reliance on an additional reference in a 35 U.S.C. § 103(a) rejection of claim 9 (Issues #18 and #22) is evidence that Lavigne alone does not anticipate claim 9.

Claim 9 depends from claim 1. Lavigne further does not teach the recited sensor nor the refrigerator/sensor/computer relationship. Where does Lavigne teach a computer that can, responsive to an refrigerator door open signal generated from a sensor, store data representative of opening the refrigerator door in the data store? Lavigne does not anticipate the claim.

Claim 24

As previously discussed, Lavigne does not constitute prior art. Appellants also traverse this rejection on the grounds that the Lavigne reference does not contain all the features and

relationships arranged in the manner recited in the claim. Again, the Action's reliance on 35 U.S.C. § 103(a) rejections of claim 24 with Lavigne (Issues #7 and #10) is evidence that Lavigne alone does not anticipate claim 24. Note Appellants' remarks in support of the patentability of claim 1.

Claim 24 is an independent claim which is specifically directed to a "system for providing medical items." The claim specifically recites that "the lock module is operative responsive to a signal from the computer to change the lock module from a locked to an unlocked condition." The claim further recites that "the computer is operative responsive to input of the item indicia to output the signal changing the lock module to the unlocked condition."

Appellants respectfully submit that Lavigne does not disclose the recited features and relationships. The Action alleges that Lavigne discloses a "lock responsive to the computer (col. 11 L 39-43)"; "the computer operative to output a signal which changes the lock (col. 11, L 39-43; col. 8, L 59-62)"; and that the "computer is operative responsive to input of the item indicia to unlock the module (col. 8, L 24-30; col. 8 L 58-59)." The Appellants disagree.

As previously discussed, in Lavigne when the person in control of the carrier wishes to administer a drug, they can open the door (21) or open a drawer (37, 41, 43), remove the desired drug from the carrier, and then administer the drug to the patient (Col. 14, lines 34-45). The operator also records the administration of the drug by entering a code into memory. The controller in the Lavigne carrier monitors the temperature of the temperature sensitive medications held therein. If the temperature goes out of range, the controller of Lavigne operates a locking solenoid (139) which operates to lock the door (21) in a closed position (Col. 11, lines 37-43; Col. 7, lines 24-26). This alerts the user to the fact that the drugs in the carrier may have

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been subject to spoilage due to an out of temperature condition. An out of temperature condition (e.g., locked door 21) typically can only be cleared by the use of a pharmacist key (Col. 12, lines 60-63) which also resets the controls (Col. 11, lines 3-12). However, a user is enabled to open the door (21) through a mechanical override if the user needs to obtain access to the medications even when there has been an out of temperature condition (Col. 12, line 64 to Col. 13, line 2).

Appellants respectfully submit that Lavigne does not disclose using a computer to change a lock module from a locked to an unlocked condition. Lavigne, at best, is only capable of locking the door (21). The door is unlocked by use of a pharmacist key. Hence, Lavigne does not disclose using a computer to unlock a lock module.

Appellants respectfully submit that Lavigne also does not disclose a computer operative responsive to an input of an item indicia to output a signal changing the lock module to the unlocked condition. Lavigne does not disclose using a computer, which responds to inputted data, to output a signal to change a lock module from a locked condition to an unlocked condition. In Lavigne, the door (21) is unlocked by use of a pharmacist key, not by a computer. It follows that Lavigne's door (21) is not unlocked by a computer in response to inputted data.

Furthermore, nothing in Lavigne compares identification information input by a user to data stored in a data store. The memory on the Lavigne carrier holds information corresponding to the person having possession of the carrier at any given time. However there is no disclosure or suggestion in Lavigne that the information input concerning the person having custody of the carrier is compared to a listing of "authorized users."

Claim 24 further specifically recites that responsive to the input of identification data corresponding to an authorized user, a user is enabled to input data corresponding to a medical

item. Again, nothing in Lavigne discloses or suggests that a user is enabled to input indicia corresponding to a medical item responsive to the input of information corresponding to an authorized user in a database.

Additionally, claim 24 specifically recites that responsive to the input of the medical item indicia (which activity is enabled when the identification data input corresponds to an authorized user), the computer is caused to output a signal, which signal changes the lock module controlling the door of the housing structure to an unlocked condition. Nothing in Lavigne discloses or suggests controlling a lock to open the door (21) in response to either medical item indicia or identification data corresponding to an authorized user. As Lavigne makes amply clear, the door (21) of his medication carrier is always unlocked except in circumstances when an out of range temperature condition has been sensed, in which case the door will lock because a temperature violation which could have damaged the medications has occurred (see Col. 11, lines 37-43).

Claim 24 further specifically recites that the lock module is mounted on an exterior surface of the housing structure. Where does Lavigne teach this recited feature?

It is respectfully submitted that claim 24 recites numerous features and relationships which are neither disclosed nor suggested in Lavigne. Thus, not only is Lavigne not prior art, Lavigne also does not anticipate the claim. For these many reasons it is respectfully submitted that claim 24 as well as all the claims that depend therefrom should be allowed.

Claim 25

Claim 25 depends from claim 24 and recites that "the lock module further includes a door sensor in operative connection with the door and the computer." Claim 25 further recites that a

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"latching device is operative to hold the lock module in the unlocked position responsive to the signal." Claim 25 further recites that "the computer is operative to cause the output of a further signal, wherein the further signal changes the lock module to a locked condition and thereafter the latching device holds the lock module in the locked condition." Claim 25 further recites that "the computer is operative to cause the further signal to be output responsive to the earlier of at least one of the door sensor sensing opening of the door and the passage of a time delay period after output of the signal without the door sensor sensing opening of the door."

Appellants respectfully submit that Lavigne does not disclose a computer operative responsive to a sensor sensing opening of a door to change a lock module to a locked condition. Nor does Lavigne disclose a computer operative responsive to a time delay period to change a lock module to a locked condition. In Lavigne, if the temperature goes out of range, the controller of Lavigne operates a locking solenoid (139) which operates to lock the door (21) in a closed position (Col. 11, lines 37-43; Col. 7, lines 24-26). That is, the controller of Lavigne operates the locking solenoid (139) based on sensing temperature conditions, not on sensing whether the door was opened or the passage of a time delay period. In Lavigne the door (21) may be opened many times without initiating the locking solenoid (139) (Col. 9, lines 7-10; Col. 14, lines 34-37; Col. 12, lines 15-18).

The Lavigne system senses the opening of a door to record an event in memory. However, Lavigne does not disclose or suggest that the sensing of a door opening or the passage of a time delay period causes a lock to be held in a locked condition.

The portion of the Lavigne reference cited against claim 25 in the Action (Col. 6, lines 47-56; Col. 7, lines 10-35) only indicates that sensors are included for sensing when drawers of

the Lavigne carrier have been opened (Col. 6, lines 47-56) and locking solenoid (139) operation (Col. 7, lines 10-35). Nothing in Lavigne discloses or suggests that in response to sensing the opening of a drawer or the passage of a time delay period, a lock module is changed to a locked condition and held in the locked condition, as is specifically recited in claim 25.

Furthermore, claim 25 recites that "the computer is operative to cause the further signal to be output responsive to the earlier of at least one of the door sensor sensing opening of the door and the passage of a time delay period after output of the signal without the door sensor sensing opening of the door." Lavigne does not disclose passage of a period of time measured after the output of the signal. Nor does Lavigne determine the earlier of either sensing the opening of the door or the passage of the time delay period. Lavigne does not anticipate claim 25.

Claim 27

Note Appellants' remarks in support of the patentability of claims 1 and 24. Lavigne does not anticipate claim 27.

Lavigne does not teach enabling access to the interior area of a refrigerator via an input corresponding to the type of medical item stored in the interior area. Where does Lavigne teach that responsive to the input of a medical item type, a computer can determine that the inputted type of medical item is stored in the interior area of a refrigerator, and the computer can generate a signal responsive to the determination to enable access to the interior area of a refrigerator? Nothing in Lavigne teaches controlling a refrigerator lock to selectively open in response to an inputted medical item type corresponding to a medical item stored in a refrigerator. As previously discussed, Lavigne makes amply clear that the door (21) of his medication carrier is always unlocked except in circumstances when an out of range temperature condition has been

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sensed, in which case the door will lock because a temperature violation (which could have damaged the medications) has occurred (see Col. 11, lines 37-43). It follows that Lavigne does not anticipate claim 27.

Claim 31

Claim 31 depends from claim 27. Lavigne further does not teach storing in a data store data representative of types of medical items stored respectively in the interior area location and in the other location, especially at the relied upon Col. 9, lines 17-34. Lavigne does not anticipate claim 31.

Claim 32

Claim 32 depends from claim 31. Lavigne further does not teach placing a first type of medical item in the storage location in the interior area and a second type of medical item in the other storage location, especially at the relied upon Col. 7, lines 36-52.

The Action is silent as to where Lavigne teaches displaying on a display device indicia representative of both the first type of medical item and the second type of medical item. Nor does Lavigne teach the recited features and relationships. Lavigne does not anticipate claim 32.

Claim 33

Claim 33 depends from claim 31. Lavigne further does not teach a refrigerator and a dispenser in the manner recited. Lavigne does not teach determining with a computer that an inputted second type of medical item is stored in a dispenser, and dispensing the second type of medical item from the dispenser responsive to a second computer signal, especially at the relied upon Col. 6, lines 20-59. Where does Lavigne generate first and second signals with a computer in regard to first and second types of medical items? Lavigne does not anticipate claim 33.

Claim 36

Claim 36 depends from claim 27. Lavigne further does not teach the recited refrigerator/sensor/computer relationship nor the sensing and storing. Where does Lavigne teach sensing that a refrigerator door has been opened, and storing data representative of the door opening? Lavigne does not anticipate the claim.

Claim 37

Claim 37 depends from claim 36. Lavigne further does not teach storing data representative of a plurality of users authorized to access medical items in the interior area of a refrigerator, and comparing whether inputted data corresponds to one of the authorized users, especially at the relied upon Col. 10, lines 27-39. As previously discussed, Lavigne does not teach comparing (with a computer) data input through an input device to authorized user data stored in a data store. Lavigne does not anticipate claim 37.

Claim 38

Claim 38 depends from claim 37/36/27. Lavigne further does not teach that when the authorized user comparing corresponds and the refrigerator door opening is performed, then storing data representative of the one authorized user in correlated relation with data representative of opening the door, especially at the relied upon Col. 10, lines 27-39. Where does Lavigne teach storing data that correlates a particular user to refrigerator interior access? Lavigne does not anticipate claim 38.

Claim 44

Note Appellants' remarks in support of the patentability of claim 27, which are incorporated herein. As previously discussed, nothing in Lavigne teaches or suggests controlling

a housing structure lock to selectively open in response to an inputted medical item type corresponding to a medical item placed in the housing structure. As previously discussed, Lavigne makes amply clear that the door (21) of his medication carrier is always unlocked except in circumstances when an out of range temperature condition has been sensed, in which case the door will lock because a temperature violation (which could have damaged the medications) has occurred (see Col. 11, lines 37-43). It follows that Lavigne does not anticipate claim 44.

The Pending Claims Are Not Anticipated By Colson '450

(Issue #3)

Claims 1, 4, 12-15, 21, 24, 27-29, 31-33, 39, and 44 were rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by Colson '450. These rejections are respectfully traversed.

The Appellants would like to point out that the Action's additional reliance on Lavigne for the 35 U.S.C. § 103(a) rejection of claims 1 and 24 as obvious over Colson '450 in view of Lavigne (Issue #11) is evidence that Colson '450 alone does not anticipate claims 1 and 24. Likewise, the Action's additional reliance on Iwamoto for the 35 U.S.C. § 103(a) rejection of claim 4 as obvious over Colson '450 in view of Iwamoto (Issue #15) is evidence that Colson '450 alone does not anticipate claim 4.

Claim 1

Again, the Action's additional reliance on Lavigne for the 35 U.S.C. § 103(a) rejection of claim 1 as obvious over Colson '450 in view of Lavigne (Issue #11) is evidence that Colson '450 alone does not anticipate claim 1.

Claim 1 is an independent claim which is specifically directed to a "system for providing medical items." The claim specifically recites that "the data store includes user data representative of a plurality of authorized users." The claim further recites that "responsive to a user inputting identification data through the input device of the interface corresponding to the data representative of an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to the one medical item through the input device." The claim further recites that "the computer is operative responsive to input of the item indicia to output the signal changing the lock module to the unlocked condition."

Appellants respectfully submit that Colson '450 does not disclose the recited features and relationships. The Action alleges that Colson '450 discloses that a "data store includes user data representative of a plurality of authorized users (col. 5, L 17-29; Fig. 1. #21)." The Appellants respectfully disagree. The relied upon section of Colson '450 is not pertinent to a data store having user data representative of a plurality of authorized users. In the relied upon section the user inputs "information concerning the particular patient and information as to the person entering the data" (Col. 5, lines 17-19). The patient's record (reflecting the inputted patient information and the user, e.g., the particular nurse) may be simultaneously and automatically updated (Col. 5, lines 20-29). Information may even be processed in real-time (Col. 3, lines 45-57). However, there is no indication that Colson '450 is concerned with the user being an "authorized user."

Colson does not teach that any comparison is made of the information that is input as to the person entering the data, to any data concerning authorized users, or to any data stored in a

data store. The operation of Colson merely specifies that information is input, the door is unlocked, and records are updated. There is no requirement to match identification data.

Appellants respectfully submit that Colson '450 does not disclose the capability of inputting identification data through an input device corresponding to the data representative of an authorized user stored in a data store. Colson '450 does not use data representative of an authorized user. Nor does Colson '450 use data representative of an authorized user stored in a data store.

Furthermore, Colson '450 does not disclose that in response to a user inputting identification data corresponding to an authorized user, a computer enables the user to input data corresponding to a medical item through the input device. Colson '450 does not disclose the capability of checking whether a user is an authorized user. Nor does Colson '450 teach enabling the input of data corresponding to a medical item, in response to the user inputted identification data corresponding to an authorized user data.

Additionally, as previously discussed, the user in Colson '450 inputs "information concerning the particular patient and information as to the person entering the data" (Col. 5, lines 17-19). Hence, it appears that the user in Colson '450 actually inputs the "information concerning the particular patient" prior to inputting the "information as to the person entering the data." This is further evidence that Colson '450 is not concerned with the user being an "authorized user." Additionally, the use of the inputted user information appears to be only for the patient's record, e.g., the nurse that supplied the medication.

Again, there is no teaching whatsoever in Colson '450 of a computer in connection with a data store having authorized user data, data representative of medical items, and data

corresponding to storage locations where medical items are stored. Further, nothing in Colson '450 discloses that a user inputs identification data to an input device, and that the input data is compared to data representative of authorized users. As Colson '450 expressly indicates (Col. 5, lines 17-29), a user of the Colson '450 device inputs information concerning a patient and information on the person entering the data, and the door opens. There is no teaching in Colson '450 that a comparison is made of inputted user identification data to data concerning a plurality of authorized users.

Claim 1 also specifically recites that the computer enables a user to input indicia corresponding to a medical item through an input device. As Colson '450 expressly indicates (Col. 5, lines 17-29), no item indicia corresponding to a medical item is input into the Colson '450 computer. Colson '450 only inputs information concerning a patient and the person entering the data, which then causes a door to open. Nothing in Colson '450 discloses the feature of a computer enabling a user to input indicia "corresponding to a medical item" through an input device, which is specifically recited in claim 1.

Claim 1 further recites that the computer is operative responsive to input of the item indicia corresponding to a medical item, to output a signal changing a lock from a locked to an unlocked condition, enabling opening a door of the refrigerator. Again, Colson '450 does not disclose the input of indicia "corresponding to a medical item" through an input device, nor having such input data cause a computer to unlock a lock.

It is respectfully submitted that claim 1 recites numerous features and relationships which are not disclosed in Colson '450. Thus, Colson '450 does not anticipate the claim. For these

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reasons it is respectfully submitted that claim 1 as well as all the claims that depend therefrom should be allowed.

Claim 4

Again, the Action's additional reliance on Iwamoto for the 35 U.S.C. § 103(a) rejection of claim 4 as obvious over Colson '450 in view of Iwamoto (Issue #15) is evidence that Colson '450 alone does not anticipate claim 4.

Claim 4 depends from claim 1. Where does Colson '450 teach a lock module (which can be unlocked responsive to a computer signal) that also comprises a manual unlocking mechanism in the manner recited? Colson '450 does not anticipate claim 4.

Claim 12

Claim 12 depends from claim 1. Colson '450 further does not teach a lock module mounted in supporting connection with an external surface of a refrigerator. The latch (35) and bolt (41) in Colson '450 are internally mounted (Figures 1, 2, 4, and 5). Note, for example, Appellants' Figure 50. Colson '450 does not anticipate claim 12.

Claim 13

Claim 13 depends from claim 12. Nor does Colson '450 teach a bolt attached to both the front surface and side surface of a refrigerator door. As previously discussed (claim 12), the lock unit in Colson '450 is internally mounted.

Claim 14

Claim 14 depends from claim 12. Nor does Colson '450 teach the recited bolt supporting bracket arrangement. Colson '450 does not anticipate claim 14.

Claim 15

Claim 15 depends from claim 14/12/1. Nor does Colson '450 teach the recited bolt supporting bracket/fasteners/cover arrangement. Colson '450 does not anticipate claim 15.

Claim 21

Claim 21 depends from claim 1. Where does Colson '450 teach the ability of the latch (35) to return to a locked condition upon closing the door in the manner recited? Colson '450 does not anticipate claim 21.

Claim 24

As previously discussed, Colson '450 does not constitute prior art. Appellants also traverse this rejection on the grounds that the Colson '450 reference does not contain all the features and relationships arranged in the manner recited in the claim. Again, the Action's additional reliance on Lavigne for the 35 U.S.C. § 103(a) rejection of claim 24 as obvious over Colson '450 in view of Lavigne (Issue #11) is evidence that Colson '450 alone does not anticipate claim 24.

Claim 24 is an independent claim which is specifically directed to a "system for providing medical items." The claim specifically recites that "the data store includes user data representative of a plurality of authorized users." The claim further recites that "responsive to a user inputting identification data through the input device of the interface corresponding to the data representative of an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to the one medical item through the input device." The claim further recites that "the computer is operative responsive to input of the item indicia to output the signal changing the lock module to the unlocked condition."

Appellants respectfully submit that Colson '450 does not disclose the recited features and relationships. The Action alleges that Colson '450 discloses that a "data store includes user data representative of a plurality of authorized users (col. 5, L 17-29; Fig. 1. #21)." The Appellants respectfully disagree. The referenced section is not pertinent to a data store having user data representative of a plurality of authorized users. In the cited section of Colson '450, the user inputs "information concerning the particular patient and information as to the person entering the data" (Col. 5, lines 17-19). The patient's record (reflecting the inputted patient information and the user, e.g., the particular nurse) may be simultaneously and automatically updated (Col. 5, lines 20-29). Information may even be processed in real-time (Col. 3, lines 45-57). However, there is no indication that Colson '450 is concerned with the user being an authorized user.

Appellants respectfully submit that Colson '450 does not disclose the capability of inputting identification data through an input device corresponding to data representative of an authorized user stored in a data store. Colson '450 does not use data representative of an authorized user. Colson '450 does not use data representative of an authorized user stored in a data store.

Furthermore, Colson '450 does not disclose that in response to a user inputting identification data corresponding to an authorized user, the computer enables the user to input data corresponding to a medical item through the input device. Colson '450 does not disclose the capability of checking whether a user is an authorized user. Colson '450 does not disclose enabling the input of data corresponding to a medical item, in response to the user inputted identification data corresponding to data for an authorized user.

Additionally, as previously discussed, the user in Colson '450 inputs "information concerning the particular patient and information as to the person entering the data" (Col. 5, lines 17-19). Hence, it appears that the user in Colson '450 actually inputs the "information concerning the particular patient" prior to inputting the "information as to the person entering the data." This is further evidence that Colson '450 is not concerned with the user being an authorized user. Additionally, the use of the inputted user information appears to be only for the patient's record, e.g., the nurse that supplied the medication.

Again, there is no disclosure or suggestion whatsoever that Colson '450 has a computer in connection with a data store with authorized user data, data representative of medical items, and data corresponding to storage locations where medical items are stored. Further, nothing in Colson '450 discloses or suggests that a user inputs identification data to an input device, and that the input data is compared to data representative of authorized users. As Colson '450 expressly indicates (Col. 5, lines 17-29), a user of the Colson '450 device inputs information concerning a patient and information on the person entering the data, and the door opens. There is no teaching, suggestion, or motivation in Colson '450 that a comparison is made of input user identification data to data concerning a plurality of authorized users.

Claim 24 also specifically recites that the computer enables a user to input indicia corresponding to a medical item through an input device. As Colson '450 expressly indicates (Col. 5, lines 17-29), no item indicia corresponding to a medical item is input into the Colson '450 computer. Colson '450 only inputs information concerning a patient and the person entering the data, which then causes a door of Colson '450 to open. Nothing in Colson '450

discloses or suggests the feature of a computer enabling a user to input indicia corresponding to a medical item through an input device, which is specifically recited in claim 24.

Claim 24 further recites that the computer is operative responsive to input of the item indicia corresponding to a medical item, to output a signal changing a lock from a locked to an unlocked condition, enabling opening a door of the housing structure. Again Colson '450 does not disclose or suggest the input of indicia corresponding to a medical item through an input device, nor having such input data cause a computer to unlock a lock.

Colson '450 also does not teach a lock module mounted on an exterior surface of a housing structure. As previously discussed, the latch (35) and bolt (41) in Colson '450 are internally mounted (Figures 1, 2, 4, and 5). Note, for example, Appellants' Figure 50.

It is respectfully submitted that claim 24 recites numerous features and relationships which are neither disclosed nor suggested in Colson '450. Thus, not only is Colson '450 not prior art, it also does not anticipate the claim. For these reasons it is respectfully submitted that claim 24, as well as all the claims that depend therefrom, should be allowed.

Claim 27

Note Appellants' remarks in support of the patentability of claims 1 and 24. Colson '450 does not anticipate claim 27.

Colson '450 does not teach enabling access to the interior area of a refrigerator via an input corresponding to the type of medical item stored in the interior area. Where does Colson '450 teach that responsive to the input of a medical item type, a computer can determine that the inputted type of medical item is stored in the interior area of a refrigerator, and the computer can generate a signal responsive to the determination to enable access to the interior area? Nothing

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in Colson '450 teaches controlling a refrigerator lock to selectively open in response to an inputted medical item type corresponding to a medical item stored in a refrigerator.

Colson '450 does not teach the steps of placing a medical item in the interior area of a refrigerator, and storing in a data store data representative of the type of placed medical item. Where does Colson '450 teach storing data that a medical item was placed in the interior area of a refrigerator? The arrangement in Colson '450 apparently relies on the item storage area being properly filled, not on stored data reflective of an item actually being stored. At best, in Colson '450 a user hopes that an item will be there.

Additionally, as previously discussed, in Colson '450 the user inputs "information concerning the particular patient and information as to the person entering the data" (Col. 5, lines 17-19). Where does the user in Colson '450 input data corresponding to a type of medical item stored in the interior area? It follows that Colson '450 also does not determine (with a computer) that a type of medical item corresponding to the input is stored in the interior area. It further follows that Colson '450 does not generate a signal responsive to the determination, and enable access to the interior area responsive to the signal. Thus, Colson '450 does not anticipate claim 27.

Claim 28

Claim 28 depends from claim 27. As previously discussed, Colson '450 does not teach attaching a lock module to an exterior surface of a refrigerator. The latch (35) and bolt (41) in Colson '450 are internally mounted (Figures 1, 2, 4, and 5).

Claim 29

Claim 29 depends from claim 28. Colson '450 further does not teach attaching a bolt supporting bracket to an exterior surface of a refrigerator door with at least one fastener, and then covering the fastener by installing a cover. Where is the alleged refrigerator door exterior surface, fastener, and cover? Colson '450 does not anticipate claim 29.

Claim 31

Claim 31 depends from claim 27. Colson '450 further does not teach storing data that is representative of types of medical items stored respectively in an interior area location and in another location. Colson '450 does not anticipate claim 31.

Claim 32

Claim 32 depends from claim 31. Colson '450 further does not teach placing a first type of medical item in the storage location in the interior area and a second type of medical item in the other storage location, especially at the relied upon sections of Colson '450.

The Action is silent as to where Colson '450 teaches displaying on a display device indicia representative of both the first type of medical item and the second type of medical item. Nor does Colson '450 teach the recited features and relationships.

Claim 33

Claim 33 depends from claim 31. Colson '450 further does not teach a refrigerator and a dispenser in the manner recited. Colson '450 does not teach determining with a computer that an inputted second type of medical item is stored in a dispenser, and dispensing the second type of medical item from the dispenser responsive to a second computer signal. Where does Colson

'450 generate first and second signals with a computer in regard to first and second types of medical items? Colson '450 does not anticipate claim 33.

Claim 39

Claim 39 depends from claim 27. Where does Colson '450 teach manually actuating an unlocking mechanism and accessing the interior area, especially at the relied upon Col. 4, line 65 to Col. 5, line 15? Colson '450 does not anticipate claim 39.

Claim 44

Note Appellants' remarks in support of the patentability of claim 27, which are incorporated herein. As previously discussed (claim 27), Colson '450 does not teach the recited method involving a "refrigerator." Appellants respectfully submit that Colson '450 also does not teach the method with regard to any "housing structure." It follows that Colson '450 does not anticipate claim 44.

The Pending Claims Are Not Anticipated By Pearson

(Issue #4)

Claim 45 was rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by Pearson. This rejection is respectfully traversed.

As previously discussed, <u>Pearson does not constitute prior art</u>. Appellants also traverse this rejection on the grounds that Pearson does not contain all the features and relationships arranged in the manner recited in the claim.

Claim 45

Claim 45 is an independent claim which is specifically directed to a "system for providing medical items." The claim specifically recites that "the computer is in operative connection with the data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored." The claim further recites that "responsive to a user inputting through the at least one input device identification data corresponding to data for an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to a medical item through the at least one input device, and wherein the computer is operative responsive to input of the item indicia to output the at least one signal changing the lock to the unlocked condition."

It is respectfully submitted that claim 45 recites features and relationships that are plainly not found in Pearson. In contrast to the elements recited in claim 45, the system in Pearson does not disclose a computer with a data store having stored user information corresponding to "authorized users." Further, Pearson does not have a computer that operates responsive to the input of identification data that corresponds to one of the authorized users, to enable input of indica which identifies a medical item. Pearson operates to dispense medication in the manner expressly indicated therein (e.g., Col. 4, line 60 to Col. 5, line 5). First a password is entered (via a keyboard; Col. 3, lines 13-15) by a nurse to authorize use of the dispenser. Next the nurse enters patient identification information. Next the nurse verifies that the screen displayed by the computer corresponds to the correct patient. Then the computer unlocks each container (8) or drawer (10) holding medication that the patient is scheduled to receive at that time.

During an unscheduled request (e.g., an emergency) the dispensing of medication may also occur (Col. 6, lines 6-23). However, the acting nurse has to provide their name and an explanation for the reason of the request. The computer is able to record all pertinent information, including the medications dispensed, the amount of medication, the identity of the patient, the time dispensed, the name of the nurse, and the explanation.

Pearson does not disclose or suggest a computer in operative connection with a data store, which data store includes data for a plurality of authorized users. The device of Pearson requires the user to input a password. The password appears to be a multi-user password which enables several different persons to access the dispenser (computer) using the same password. Thus, the arrangement of the dispenser (computer) of Pearson is similar to a personal computer that enables access to plural users while requiring only a single password. That is, only a single password is required to access the dispenser of Pearson. Therefore, any nurse that has been authorized to know the current password may access the medication dispenser.

Pearson does not disclose or suggest that a computer operates in response to determining that the inputted user identification data corresponds to one of a plurality of different authorized users. Pearson does not disclose or suggest in any manner that a plurality of different passwords are required. Nor does Pearson disclose or suggest that a plurality of different passwords are required corresponding to different authorized users. Nor does Pearson disclose or suggest that a plurality of different passwords are stored in a data store, where the passwords reflect data representative of a plurality of authorized users. Pearson does not disclose or suggest data corresponding to a plurality of authorized users stored in a data store. Nor does Pearson disclose or suggest a computer in operative connection with the data store. Nor does Pearson disclose or

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suggest comparing (corresponding) inputted identification data with that of a plurality of authorized users' data. That is, in Pearson there is no disclosure or suggestion of comparing an input password to a plurality of authorized passwords in a data store.

Furthermore, claim 45 specifically recites that "the computer is in operative connection with the data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored." The Action has not indicated, nor is it seen, where Pearson discloses a data store including data representative of a plurality of "authorized users", a plurality of "medical items", and "storage locations" in which the medical items are stored. Nor has the Action indicated, nor is it seen, where Pearson discloses a computer in operative connection with a data store including data representative of a plurality of authorized users, a plurality of medical items, and storage locations in which the medical items are stored.

Furthermore, there is no disclosure in Pearson of the feature that a computer operates in response to determining that the inputted user data corresponds to one of a plurality of authorized users, to then enable input of indicia corresponding to a medical item. Pearson does not disclose the relationship, as specifically recited in claim 45, that the computer operates to enable the input of item indicia corresponding to a medical item responsive to receipt of identifying data corresponding to data for an authorized user among a plurality of authorized users for whom data is stored, and the computer then operating responsive to the item indicia to generate a signal changing the condition of the lock to an open condition. Additionally, as previously discussed,

Pearson fails to disclose or suggest that a "data store includes user data representative of a plurality of authorized users."

It is respectfully submitted that claim 45 recites numerous features and relationships which are neither disclosed nor suggested in Pearson. Thus, not only is Pearson not prior art, it also does not anticipate the claim. Furthermore, even if it were somehow possible for Pearson to be entitled to the filing date of Pearson '029, Pearson '029 also does not disclose or suggest the recited features and relationships recited in claim 45. For these reasons it is respectfully submitted that claim 45 should be allowed.

The Pending Claims Are Not Anticipated By Higham

(Issue #5)

Claim 46 was rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Higham. This rejection is respectfully traversed.

As previously discussed, <u>Higham does not constitute prior art</u>. The Office has admitted (in the Advisory Action dated November 7, 2000) that the Declaration was "effective in overcoming the 102(e) based anticipatory and obviousness rejections of claim 45 as evidenced by Higham." The Notification dated April 9, 2001 confirmed claim 45 as patentable over Higham. It follows that claim 46 (which depends from claim 45) is likewise patentable over Higham. Appellants also traverse this rejection on the grounds that Higham does not contain all the features and relationships arranged in the manner recited in the claim.

The Appellants would also like to point out that the Action's reliance on the 35 U.S.C. § 103(a) rejection of claim 46 as obvious over Higham (Issue #8) is further evidence that Higham alone does not anticipate the claim.

Claim 46

The Notification dated April 9, 2001 indicated that the rejection of claim 46 as being anticipated by Higham remained in effect. That is, even though independent claim 45 was deemed patentable over Higham, claim 46 (which depends from claim 45) was still held to be rejected. Appellants traverse the rejection and the Office's reasoning.

The Action alleges that Higham shows a data store having user data representative of a plurality of authorized users at Col. 13, lines 30-41. The Appellants respectfully disagree. There is no indication that Higham has a data store including user data representative of a plurality of authorized users (claim 45). Nor is there any indication that Higham's user identification information corresponds to data for an authorized user. Higham at Col. 13, lines 32-33 states that user identification information and patient identification information are entered into a processor. It appears that this information is gathered for record keeping and not for authorized usage. Why would patient identification information be needed for authorizing use?

Nothing in Higham compares identification information input by a user to data stored in a data store. There is no disclosure in Higham that the entered information is compared to data representative of a plurality of "authorized users."

Furthermore, nothing in Higham discloses that a user is enabled to input indicia corresponding to a medical item responsive to the input of data corresponding to an authorized user in a data store.

Furthermore, Higham does not disclose a lock having a visual indicator (claim 46). The Action alleges that Higham has a lock that comprises a visual indicator at Col. 11, lines 41-65. However, the referenced section of Higham is silent as to a lock having a visual indicator in the manner recited.

Nor does Higham disclose that a visual indicator provides an indication responsive to a computer output signal that a door is enabled to be opened. In Higham the visual indicators are used to indicate which drawer or rack has the item, and they are then used to indicate the location of the item in that particular drawer or rack (Col. 7, lines 1-6). Nothing in Higham discloses that a visual indicator provides an indication that a door is enabled to be opened. It follows that Higham does not anticipate claim 46.

The Pending Claims Are Not Anticipated By Colson '297

(Issue #6)

Claim 45 was rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by Colson '297. This rejection is respectfully traversed.

The Appellants would like to point out that the Action's reliance on the 35 U.S.C. § 103(a) rejection of claim 45 as obvious over Colson '297 (Issue #9) is further evidence that Colson '297 alone does not anticipate the claim. Likewise, the Action's reliance on the 35 U.S.C. § 103(a) rejection of claim 45 as obvious over Colson '297 in view of Lavigne (Issue #13) is evidence that Colson '297 alone does not anticipate claim 45.

Claim 45

Claim 45 is an independent claim which is specifically directed to a "system for providing medical items." The claim specifically recites that "the computer is in operative connection with the data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored." The claim further recites that "responsive to a user inputting through the at least one input device identification data corresponding to data for an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to a medical item through the at least one input device, and wherein the computer is operative responsive to input of the item indicia to output the at least one signal changing the lock to the unlocked condition."

It is respectfully submitted that claim 45 recites features and relationships that are plainly not found in Colson '297. In contrast to the elements recited in claim 45, the system in Colson '297 does not disclose a computer with a data store having stored user information corresponding to "authorized users." Further, Colson '297 does not have a computer that operates responsive to the input of data that corresponds to one of the authorized users, to enable input of indica which identifies a medical item. Colson '297 operates in the manner expressly indicated therein (e.g., Col. 4, lines 39-52). Inputs through a keyboard, identifying a medical item and identifying a person, cause a door to unlock. There is no disclosure of comparing the input concerning the person taking the item, to data in a data store containing data for a plurality of authorized users. Colson '297 simply receives the data and apparently stores the data for later recovery. There is no ability to compare input data to previously stored data, as expressly recited in the claim.

Further there is no disclosure in Colson '297 of the feature that a computer operates in response to determining that the input user data corresponds to one of the authorized users, to then enable input of indicia identifying a medical item. According to Colson '297, identifying information concerning a medical item can be input at any time and is apparently input before any user information (Col. 4, lines 39-52). Colson '297 further fails to disclose this feature which is expressly recited in claim 45.

Claim 45 also recites that the data store in operative connection with the computer includes location data representative of storage locations in which medical items are stored. The cited portions of Colson '297 do not disclose a data store, nor a data store including location data representative of storage locations in which particular medical items are stored. Further Colson '297 does not disclose the relationship as specifically recited in claim 45, that the computer operates to enable the input of item indicia corresponding to a medical item responsive to receipt of identifying data corresponding to data for an authorized user among a plurality of authorized users for whom data is stored, and the computer then operating responsive to the item indicia to generate a signal changing the condition of the lock to an open condition.

It is respectfully submitted that claim 45 recites numerous features and relationships which are not disclosed in Colson '297. Thus, Colson '297 does not anticipate claim 45. For these reasons it is respectfully submitted that claim 45 as well as all the claims that depend therefrom should be allowed.

(iv)   35 U.S.C. § 103

Appellants traverse the rejections on the grounds that Appellants' claims recite features and relationships which are neither disclosed nor suggested in the prior art, and because there is no teaching, suggestion, or motivation cited so as to produce Appellants' invention. The features and relationships recited in Appellants' claims patentably distinguish over the applied reference(s).

Appellants respectfully submit that none of the applied reference(s), whether taken alone or in combination, teach or suggest the features and relationships that are specifically recited in the claims. The Office has not established a *prima facie* showing of obviousness. Even if it were somehow possible for the reference(s) to have disclosed certain features as alleged, it still would not have been obvious to one having ordinary skill in the art to have modified or combined the reference(s) as alleged. Furthermore, even if it were somehow possible for the reference(s) to be modified or combined as alleged (which it isn't), the resultant modification still would not have produced the claimed invention. It would not have been obvious to one having ordinary skill in the art to have modified the reference(s) as alleged to have produced the recited invention. Thus, Appellants respectfully submit the rejections are improper and should be withdrawn.

The Pending Claims Are Not Obvious Over Lavigne

(Issue #7)

Claims 1-3 and 24-26 were rejected under 35 U.S.C. § 103(a) as obvious over Lavigne. These rejections are respectfully traversed.

Regarding claims 1, 3, and 24-25, the Action indicates that it relies on Lavigne as "previously discussed" in the 35 U.S.C. § 102(e) rejections. Claims 1, 3, and 24-25 are not further addressed. The Action then addresses claims 2 and 26.

The Appellants would like to point out that the Action's additional reliance on Aten (i.e., Lavigne in view of Aten) for the 35 U.S.C. § 103(a) rejection of claims 1, 3, and 24-26 (Issue #10) is further evidence that Lavigne alone does not render claims 1, 3, and 24-26 obvious.

Furthermore, as previously discussed, <u>Lavigne does not constitute prior art</u> with regard to at least claim 24.

Claims 1, 3, and 24-25

Before a valid obviousness rejection may be presented it must be established that each and every one of the features recited in the claims is known in the prior art. This is known as *prima facie* obviousness. If the Office does not produce a *prima facie* case (which is the current situation), then the Appellants are under no obligation to submit evidence of nonobviousness (MPEP § 2142).

Appellants' remarks, concerning the anticipation of claims 1, 3, and 24-25 by the Lavigne reference, are herein incorporated by reference. Lavigne alone does not teach each and every one of the recited features and relationships of claims 1, 3, and 24-25, as previously discussed. Claims 1, 3, and 24-25 recite numerous features and relationships not found in Lavigne. The record lacks substantial evidence support. *In re Zurko*, supra. It follows that the Action does not factually support a *prima facie* conclusion of obviousness.

Nor does Lavigne (or the Action) provide any suggestion or motivation to produce the recited features and relationships of claims 1, 3, and 24-25. It would not have been obvious to

have modified Lavigne to have produced the recited invention. Thus, Appellants respectfully submit the rejections of claims 1, 3, and 24-25 are improper and should be withdrawn.

Claim 2

Claim 2 depends from claim 1 and further recites that "the lock module further comprises a visual indicator, and wherein the visual indicator provides an indication responsive to the signal that the door is enabled to be opened."

The Action alleges that Lavigne shows a visual indicator "proximate" the lock (Col. 11, lines 3-43). Hence, the Action inherently admits that Lavigne lacks a lock module that "comprises" a visual indicator. The Action alleges that it would have been obvious to place a visual indicator on Lavigne's lock. Appellants respectfully disagree.

Appellants respectfully submit that Lavigne does not disclose a lock module comprising a visual indicator. In Lavigne, at best it is the control module (31) which has a visual indicator (LEDs 75) (Col. 5, lines 54-57), not a lock module.

Also, the Action has not shown any reason or motivation to combine, or explain how or why a visual indicator would be placed on Lavigne's locking arrangement (solenoid 139) as alleged. Especially when the control module (31) already has a visual indicator. Thus, any attempt to dramatically change the structural arrangement of Lavigne would go directly against the implicit teaching of the Lavigne reference and would destroy the reference. That is, the alleged modification to Lavigne would destroy the disclosed utility or operability of the Lavigne teaching. However, an obviousness rejection cannot be based on a combination of features in references if making the combination would result in destroying the utility or advantage of the

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device shown in the prior art references. Note *In re Fine,* supra. Therefore, it would not have been obvious to have provided Lavigne with a visual indicator as alleged.

Furthermore, claim 2 specifically recites that the visual indicator provides an indication that the door is enabled to be opened. In Lavigne, the indicator lights (LEDs 75) only indicate a temperature condition (Col. 11, lines 25-43), not the door's opening condition. For example, if a temperature violation has occurred for the temperature sensitive items in the drawers (37), then the door (21) will lock (Col. 11, lines 37-41). However, if the temperature violation has occurred in the refrigerated drawer (47) then the door (21) can still be opened (Col. 11, lines 41-43). Hence, it appears that upon an occurrence of a temperature violation one would be unable to determine from the LED whether the door (21) is enabled to be opened. Any attempt to modify Lavigne to include a lock module comprising a visual indicator to provide an indication that a door is enabled to be opened is clearly an attempt at hindsight reconstruction of Appellants' claimed invention, which is impermissible. Lavigne does not disclose or suggest a visual indicator for providing an indication that a door is enabled to be opened.

Furthermore, claim 2 recites that "the visual indicator provides an indication <u>responsive to the signal</u> that the door is enabled to be opened." From claim 1, the "signal" is from a computer to change the lock module from a locked to an unlocked condition. Lavigne does not disclose or suggest that a visual indicator is responsive to a signal (from a computer) to change a lock module from a locked to an unlocked condition. Contrarily, as previously discussed, Lavigne, at best, only discloses changing a locking solenoid (139) from an unlocked to a locked condition. Thus, Lavigne actually teaches away from the subject matter recited in claim 2.

It is respectfully submitted that the rejection on the basis of Lavigne should be withdrawn as it fails to establish that all the features recited in Appellants' claim are shown in the cited art, and further fails to show that there is any teaching, suggestion, or motivation in the cited art for producing the claimed invention.

Claim 26

Claim 26 depends from claim 25 and further recites that "the latching device includes a permanent magnet latching solenoid." Lavigne further does not teach or suggest a lock module including a latching device, especially where the lock module is mounted on an exterior surface of a housing structure. Lavigne also does not teach or suggest that the exterior mounted latching device includes a permanent magnet latching solenoid.

Appellants respectfully wish to point out the deficiency in the Action in regard to their request for a showing that the use of permanent magnet solenoids were known in the prior art of medical item dispensing systems, and for a specific citation to some teaching, suggestion, or motivation to include such a device in the recited combinations. In a prior response, Appellants challenged the assertion that an "official notice" could be taken that use of permanent magnets in solenoids is well known because such construction "averts the need for plural windings." In response to the traverse of the "official notice" rejection, the Patent Office in the Action cited the abstracts in Keskin, Nemoto, and Tabata. However, none of these patents have to do with the relevant art of medical item dispensing systems in the manner recited. No teaching, suggestion, or motivation in the relevant art was cited to include features of these patents in connection with a medical item dispensing system. None of these patents show the alleged advantage of averting the need for plural windings, and in fact do not have such advantage. Finally, the citation in the

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Action to the abstract of Keskin does not appear to even discuss the use of a permanent magnet for any purpose.

The rejection relies on conclusory statements, not evidence of record. The Action's mere assertions do not constitute the required prior art evidence of record, and thus lack substantial evidence support. The determination of patentability must be based on evidence of record, not on unsubstantiated assertions under the guise of an Official notice (which is the present situation). As the evidence of record does not support the rejection, the claims should be allowed. *In re Zurko*, supra. *In re Lee*, supra.

It is respectfully submitted that the rejection on the basis of Lavigne should be withdrawn as Lavigne is not prior art, and the rejection fails to establish that all the features and relationships recited in Appellants' claim are shown in the cited art, and the rejection further fails to show that there is any teaching, suggestion, or motivation in the cited art for producing the claimed invention.

The Pending Claims Are Not Obvious Over Higham

(Issue #8)

Claims 46-47 were rejected under 35 U.S.C. § 103(a) as obvious over Higham. These rejections are respectfully traversed.

As previously discussed, Higham does not constitute prior art. The Office has admitted (in the Advisory Action dated November 7, 2000) that the Declaration was "effective in overcoming the 102(e) based anticipatory and obviousness rejections of claim 45 as evidenced by Higham." The Notification dated April 9, 2001 confirmed claim 45 as patentable over Higham.

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That is, even though independent claim 45 was deemed patentable over Higham, claims 46-47 (which depend from claim 45) were still held to be rejected.

However, "If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious" (MPEP 2143.03). *In re Fine*, supra. The Office has admitted independent claim 45 to be nonobvious (nor anticipated) with regard to Higham. Appellants respectfully submit that dependent claims 46-47 (which include the subject matter of independent claim 45) are patentable over Higham for the same reasons claim 45 was deemed patentable over Higham. It follows that the rejection of dependent claims 46-47 is invalid.

Appellants also traverse this rejections of claims 46-47 on the grounds that Higham does not contain all the features and relationships arranged in the manner recited in the claims.

Claim 46

Claim 46 recites that "the lock further comprises a visual indicator, and wherein the visual indicator provides an indication responsive to the at least one signal that the door is enabled to be opened." The Action is silent as to where Higham teaches or suggests the recited features and relationships. The Action is also silent as to why the features and relationships of claim 46 are obvious in Higham. Appellants' respectfully decline to speculate. The record lacks substantial evidence support. *In re Zurko*, supra. Nor does the Action factually support any *prima facie* conclusion of obviousness. Appellants' arguments as to why claim 46 is not anticipated by Higham are herein incorporated by reference.

Nothing in Higham discloses nor suggests the features and relationships that are specifically recited in the claim. Additionally, there is no teaching, suggestion, or motivation cited for combining features of Higham so as to produce the recited invention.

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Claim 47

In claim 47 a computer is operative responsive to an open signal to change a lock to a locked condition, wherein when a door is next returned to a closed condition the door is held therein. Higham does not teach or suggest the recited features and relationships.

Higham also does not teach or suggest a computer operative responsive to input of an item indicia to output a signal to change a lock from a locked to an unlocked condition (claim 45). Nor does Higham teach or suggest a computer that is operative responsive to an open signal (responsive to opening a door) to change a lock to a locked condition. It follows that Higham does not teach or suggest that when an opened door is closed, the door is held therein.

There is no indication in Higham of the ability to change a lock to a locked condition. The Office confuses closure with locked. Nor does Higham have the ability to change a lock to a locked condition using a computer.

The Action alleges that it would have been obvious for Higham to lock the door upon closure. The Appellants respectfully disagree. Even if Higham's drawers were (automatically) locked "upon closure" as alleged, they still would not be changed to a locked condition by a computer. Nor would the lock be changed to a locked condition operatively responsive to an open signal.

Higham is silent as to lock operation. Higham does not teach or suggest having an electronically operated lock, wherein the drawer is in a permanent locked state except for the brief time when it is permitted to be opened. Nevertheless, Higham does not disclose or suggest changing a lock to a locked condition by a using a computer responsive to a door open signal.

Furthermore, even if it were somehow possible to modify Higham in the manner alleged, it still would not have resulted in the recited invention. The Action proposes modifying Higham "to lock the door upon closure" (Action page 9, first paragraph). However, claim 47 enables changing the lock to a locked condition upon opening of the door. Locking a door upon opening differs from the alleged modification of locking Higham's door upon closing.

The Office has not established a *prima facie* showing of obviousness. It follows that it would not have been obvious to one having ordinary skill in the art to have modified Higham as alleged to have produced the recited apparatus of claim 47.

The Pending Claims Are Not Obvious Over Colson '297

(Issue #9)

Claims 45-46 were rejected under 35 U.S.C. § 103(a) as obvious over Colson '297. These rejections are respectfully traversed.

The Appellants would like to point out that the Action's additional reliance on Lavigne (i.e., Colson '297 in view of Lavigne) for the 35 U.S.C. § 103(a) rejection of claims 45-46 (Issue #13) is further evidence that Colson '297 alone does not render claims 45-46 obvious. the Action's reliance on the 35 U.S.C. § 103(a) rejection of claim 45 as obvious over Colson '297 in view of Lavigne (Issue #13) is evidence that Colson '297 alone does not anticipate claim 45.

Regarding claim 45, the Action indicates that it relies on Colson '297 as "previously disclosed" in the 35 U.S.C. § 102(b) rejections. Claim 45 is not later addressed. The Action then addresses claim 46.

Claim 45

Before a valid obviousness rejection may be presented it must be established that each and every one of the features recited in the claims is known in the prior art. If the Office does not produce a *prima facie* case (which is the current situation), then the Appellants are under no obligation to submit evidence of nonobviousness (MPEP § 2142).

Appellants' remarks, concerning the anticipation of claim 45 by the Colson '297 reference, are herein incorporated by reference. Colson '297 alone does not teach each and every one of the recited features and relationships of claim 45, as previously discussed. Claim 45 recites numerous features and relationships not found in Colson '297. The record lacks substantial evidence support. *In re Zurko*, supra. It follows that the Action does not factually support a *prima facie* conclusion of obviousness.

Nor does Colson '297 (or the Action) provide any suggestion or motivation to produce the recited features and relationships of claim 45. It would not have been obvious to have modified Colson '297 to have produced the recited invention. Thus, Appellants respectfully submit the rejections of claim 45 is improper and should be withdrawn.

Claim 46

Claim 46 depends from claim 45 and further recites that "the lock further comprises a visual indicator, and wherein the visual indicator provides an indication responsive to the at least one signal that the door is enabled to be opened."

The Action alleges that Colson '297 shows that a "lock comprises a visual indicator illuminating the region of the store medication item" at Col. 3, lines 10-16. The Action then

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alleges that it would have been obvious to "modify the illumination to a visual indicator on released lock." Appellants respectfully disagree.

Appellants respectfully submit that Colson '297 does not disclose a <u>lock comprising</u> a visual indicator. The Action's cited section of Colson '297 (Col. 3, lines 10-16) refers to electric lighting which is further discussed at Col. 6, lines 57-68. Colson '297 does not disclose a lock comprising the electric lighting. Instead the electric lighting of Colson '297 comprises lamps (109) in the interior of a cabinet (3). The doors (19) have a transparent window (23). The electric lighting provides illumination to help a user locate stored items (Col. 6, lines 57-68).

The Action has not shown any reason or motivation to combine, or explained how or why the electric lighting of Colson '297 would be placed with a locking arrangement as alleged, especially since the illumination by interior lamps (109) are apparently already seen through the transparent windows (23). Any attempt to dramatically change the structural arrangement of Colson '297 would go directly against the implicit teaching of the Colson '297 reference and would destroy the reference. That is, the alleged modification to Colson '297 would destroy the disclosed utility or operability of the Colson '297 teaching, especially the disclosed use of the lamps (109) placed in the cabinet (3) to provide the illumination in the cabinet to find an item.

An obviousness rejection cannot be based on a combination of features in references if making the combination would result in destroying the utility or advantage of the device shown in the prior art references. *In re Fine*, supra. Therefore, it would not have been obvious to have provided Colson '297 with a visual indicator in the manner recited.

Furthermore, claim 46 specifically recites that the visual indicator of the lock provides an indication that a door is enabled to be opened. Where does Colson '297 teach that the electric

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lighting (109) provides a visual indication of a condition of a lock showing that a door is enabled to be opened? Colson '297 merely teaches that the electric lighting (109) provides illumination. Thus, Colson '297 does not disclose or suggest a visual indicator for providing an indication that a door is enabled to be opened in the manner recited. Any attempt to modify Colson '297 to include a lock comprising a visual indicator to provide an indication that a door is enabled to be opened is clearly an attempt at hindsight reconstruction of Appellants' claimed invention, which is impermissible. It follows that it would not have been obvious to have modified Colson '297 in the manner alleged, especially to have produced the recited invention.

Furthermore, claim 46 recites that "the visual indicator provides an indication <u>responsive to the at least one signal</u> that the door is enabled to be opened." From claim 45, the "signal" is from a computer to change the lock from a locked to an unlocked condition. Colson '297 does not disclose or suggest that a visual indicator is responsive to a signal (from a computer) to change a lock from a locked to an unlocked condition. Again, Colson '297 does not teach or suggest the subject matter recited in claim 46. It follows that it would not have been obvious to have modified Colson '297 as alleged to have produced the recited invention.

It is respectfully submitted that the rejection on the basis of Colson '297 should be withdrawn as it fails to establish that all the features recited in Appellants' claim are shown in the cited art, and it further fails to show that there is any teaching, suggestion, or motivation in the cited art for producing the claimed invention.

The Pending Claims Are Not Obvious Over Lavigne In View of Aten

(Issue #10)

Claims 1, 3, and 24-26 were rejected under 35 U.S.C. § 103(a) as obvious over Lavigne in view of Aten. These rejections are respectfully traversed.

As previously discussed, <u>Lavigne does not constitute prior art</u> with regard to at least claim 24. Appellants also traverse this rejection on the grounds that Pearson does not contain all the features and relationships arranged in the manner recited in the claim

Claims 1, 3, and 24-26

As previously discussed (Issues #2 and #7), claims 1, 3, and 24-26 recite numerous features and relationships that are not found in Lavigne. Appellants' remarks concerning the previously discussed anticipation (claims 1, 3, and 24-25) and obviousness (claims 1, 3, and 24-26) rejections based on Lavigne alone are herein incorporated by reference. As previously discussed, the record lacks substantial evidence support. *In re Zurko*, supra. The Action does not factually support a *prima facie* conclusion of obviousness.

The rejection of Lavigne combined with Aten does not specifically cite any features in Aten that are necessary to overcome the previously discussed deficiencies of Lavigne alone with regard to claims 1, 3, and 24-25. Nor is there any teaching, suggestion or motivation in the combined references to produce the recited features and relationships in these claims. Neither Lavigne nor Aten, taken alone or in combination, teach or suggest the features and relationships that are specifically recited in these claims. It is therefore respectfully submitted that the rejections should be withdrawn.

The only discussion in the Action concerning the combination with Aten that mentions any features recited in the rejected claims, is claim 26, which relates to the referred to "permanent magnet." Thus, claim 26 is the only claim addressed by the Office in the rejection of claims 1, 3, and 24-26. That is, apparently claim 26 is the only claim that involves Aten. As mentioned, Appellants' previous remarks regarding the claims (i.e., claims 1, 3, and 24-25) other than claim 26 are incorporated by reference.

Claim 26

Claim 26 depends from claim 25/24. Claim 26 further recites that "the latching device includes a permanent magnet latching solenoid."

The Action alleges that it would have been obvious to make the dispenser of Lavigne "with a solenoid having a permanent magnet because a construction averts the need for plural windings as taught by Aten et al. (Col. 9 L 1-30)." Hence, the Action inherently admits that Lavigne lacks a latching device including a permanent magnet latching solenoid.

Appellants disagree that Aten discloses or suggest a latching device in the manner recited. Nor does Aten teach averting the need for "plural windings" as alleged in the Action. Aten teaches a notched locking wheel (86) positioned to prevent ejector pinion (34) rotation unless the wheel notch (90) is so aligned as to allow an ejector pinion pin to rotate forward. Latching mechanisms can insure that lock/unlock positions of the locking wheel are retained. One form of the latching mechanism utilizes magnets. The Action does not state in any teaching, suggestion, or motivation how to combine features of Aten with Lavigne to produce the recited invention.

It is respectfully submitted that the Action fails to establish a *prima facie* case of obviousness against the claim. The modification of Lavigne with the teaching of Aten still

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would not have resulted in the recited invention. Therefore, it is respectfully submitted that the 35 U.S.C. § 103(a) rejection be withdrawn.

The Pending Claims Are Not Obvious Over Colson '450 In View of Lavigne (Issue #11)

Claims 1-3 and 24-25 were rejected under 35 U.S.C. § 103(a) as obvious over Colson '450 in view of Lavigne. These rejections are respectfully traversed. As previously discussed, Lavigne does not constitute prior art with regard to at least claim 24.

As previously discussed in the anticipation rejection by Colson '450 (Issue #3), claims 1 and 24 recite numerous features and relationships that are not found in Colson '450. Appellants' previous remarks, concerning the rejection of claims 1 and 24 based upon the Colson '450 reference, are herein incorporated by reference.

As previously discussed (Issues #2 and 7), claims 1-3 and 24-25 recite numerous features and relationships that are not also found in Lavigne. Appellants' remarks, concerning the rejections of claims 1-3 and 24-25 based upon the Lavigne reference, are herein incorporated by reference. It follows that neither Colson '450 nor Lavigne, taken alone or in combination, teach or suggest the recited invention.

The discussion in the rejection suggests that it is addressing only the features recited in claims 2-3 and 25-26. This is because only these claims respectively mention a "visual indicator", a "door sensor", and a "latching device." The Action is silent regarding claims 1 and 24, especially which recited features are absent in Colson '450 and the application of Lavigne.

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Appellants refuse to speculate as to possible rationales for the rejections of claims 1 and

24. The Patent Office bears the burden of showing in the cited art a specific teaching, suggestion

or motivation to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, supra. A

teaching, suggestion or motivation to combine features in prior art references must be clearly and

particularly identified in such prior art to support a rejection on the basis of obviousness. *In re*

Dembiczak, supra. A statement of rejection must explain with reasonable specificity the

rejection, otherwise (as in the current situation) the Action procedurally fails to establish a *prima*

facie case of obviousness. *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989).

Appellants have reviewed the references cited and have determined that the cited

references, taken individually or as a whole, clearly do not teach or suggest the invention recited

in claims 1 and 24. Therefore, the claims would not have been obvious to one having ordinary

skill in the art.

Claim 1

The Office has not established that each and every one of the features recited in the claim

is known in the prior art. The rejection on the basis of Colson '450 and Lavigne does not

overcome the deficiencies of the rejections already discussed, which rejections assert for example

that pending claim 1 is anticipated by these same references. Thus, as the Colson '450 and

Lavigne references do not disclose all the elements of the claim (nor any teaching, suggestion, or

motivation to produce the claimed combination), the rejection is further respectfully submitted to

be improper on this basis.

As previously discussed, Colson '450 does not disclose the capability of inputting

identification data through an input device, corresponding to the data representative of an

authorized user stored in a data store. Colson '450 does not use data representative of an authorized user. Colson '450 does not use data representative of an authorized user stored in a data store. Nothing in Colson '450 discloses or suggests that a user inputs identification data to an input device, and that the input data is compared to data representative of authorized users.

As also previously discussed, nothing in Lavigne compares identification information input by a user to authorized user data stored in a data store. The memory on the Lavigne carrier only holds information corresponding to the person having possession of the carrier at any given time through their respective keys (Col. 8, lines 26-29). However, as previously discussed, there is no disclosure or suggestion in Lavigne that the information input concerning the person having custody of the carrier is compared to a listing of "authorized users." Hence, Lavigne cannot overcome the deficiencies of Colson '450 as it does not disclose or suggest the recited features which are absent in Colson '450.

Furthermore, Colson '450 does not disclose that in response to a user inputting identification data corresponding to an authorized user, the computer enables the user to input data corresponding to a medical item through the input device. Colson '450 does not disclose enabling the input of data corresponding to a medical item, in response to the user inputted identification data corresponding to data for an authorized user.

Likewise, nothing in Lavigne discloses or suggests that a user is enabled to input indicia corresponding to a medical item responsive to the input of information corresponding to an authorized user in a database. Hence, Lavigne also cannot overcome the deficiencies of Colson '450 in this matter as it also does not disclose or suggest the recited features which are absent in Colson '450.

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Neither Colson '450 nor Lavigne, taken alone or in combination, disclose or suggest the features and relationships that are specifically recited in the claim. As nothing in the cited art discloses nor suggests the features and relationships that are specifically recited in the claim, and because there is no teaching, suggestion or motivation cited for combining features of the cited references so as to produce Appellants' invention, it is respectfully submitted that the claim is allowable for these reasons. Appellants also respectfully submit that dependent claims 2-3 are likewise allowable for at least the same reasons.

Claim 2

Claim 2 depends from claim 1 and further recites that "the lock module further comprises a visual indicator, and wherein the visual indicator provides an indication responsive to the signal that the door is enabled to be opened."

The rejection on the basis of Colson '450 and Lavigne admits that Colson '450 alone does not disclose a visual indicator located on a lock. The Action then goes on to state (without any citation to any teaching, suggestion, or motivation in the cited art) that it would be "obvious to substitute location of the visual indicator to the lock as a matter of design choice because proximate placement of a visual indicator is sufficient to indicate to the user the location of the compartment(s) and the status of the lock corresponds with the compartment access commands from the computer (Col. 6, lines 47-56; Col. 7, lines 10-35)." Appellants respectfully submit that this assertion is not sufficient to reject the pending claim.

The Action admits that Colson '450 does not disclose a visual indicator located on a lock. It follows that Colson '450 does not disclose a visual indicator that provides an indication

responsive to a signal from a computer that can cause the lock to be changed from a locked condition to an unlocked condition.

As previously discussed Lavigne also does not disclose or suggest these features. Appellants' remarks, concerning the rejection of claim 2 based on the Lavigne reference alone, are herein incorporated by reference.

The Action alleges (in paragraph number 11) that Lavigne shows a visual indicator proximate the lock (Col. 11, lines 3-43). The Action alleges that it would have been obvious to place a visual indicator on the Lavigne's lock. Hence, the Action inherently admits that Lavigne lacks a lock module comprising a visual indicator. Appellants respectfully submit that in Lavigne, it is the control module (31) which has a visual indicator (LEDs 75) (Col. 5, lines 54-57), not a lock module. Hence, Lavigne cannot overcome the deficiencies of Colson '450 as it does not disclose or suggest the recited features which are admittedly absent in Colson '450.

Furthermore, claim 2 specifically recites that the visual indicator provides an indication that the door is enabled to be opened. In Lavigne, the indicator lights (LEDs 75) only indicate a temperature condition (Col. 11, lines 25-43), not the door's locked or unlocked condition. Hence, Lavigne cannot overcome the deficiencies of Colson '450 as it does not disclose or suggest the recited features which are absent in Colson '450.

Furthermore, claim 2 recites that "the visual indicator provides an indication responsive to the signal that the door is enabled to be opened." From claim 1, the "signal" is from a computer to change the lock module from a locked to an unlocked condition. Lavigne does not disclose or suggest that a visual indicator is responsive to a signal (from a computer) to change a lock module from a locked to an unlocked condition. Contrarily, as previously discussed,

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Lavigne, at best, only discloses changing a locking solenoid (139) from a normally unlocked condition, to a locked condition. Thus, Lavigne actually teaches away from the subject matter recited in claim 2. Hence, Lavigne cannot overcome the deficiencies of Colson '450 as it does not disclose or suggest the recited features which are absent in Colson '450.

It is respectfully submitted that the rejection on the basis of Colson '450 in view of Lavigne should be withdrawn as it fails to establish that all the features recited in Appellants' claims are shown in the cited art, and further fails to show that there is any teaching, suggestion, or motivation in the cited art for producing the claimed invention.

Claim 3

Claim 3 depends from claim 1 and further recites that "the lock module further comprises a door sensor, wherein the door sensor is operative to generate an open signal responsive to opening the door, and wherein the computer is operative responsive to the open signal to change the lock module to the locked condition, wherein when the door is next returned to a closed condition the door is held therein."

The Action admits that Colson '450 does not disclose "a door sensor; door (sensor) is operative to generate an open signal responsive to the door opening." The Action then alleges that Lavigne "discloses a door sensor with the door operative to generate an open signal responsive to the door opening." The Action further alleges that it would have been "obvious to use a sensor to detect the opening of the door as a means of saving power and recording removal of the item as taught by Colson" '450.

The Action admits that Colson '450 does not disclose a "door sensor" or that "the door sensor is operative to generate an open signal responsive to opening the door." It follows that

Colson '450 lacks a lock module comprising a door sensor. It further follows that Colson '450

lacks that a "computer is operative responsive to the open signal to change the lock module to the

locked condition, wherein when the door is next returned to a closed condition the door is held

therein."

The Lavigne system senses the opening of a door to record an event in memory.

However, the sensing of the door opening in no way causes a lock to change its condition so that

when the door of the Lavigne carrier is thereafter closed, it is held closed and locked. The

portion of the Lavigne reference cited against claim 3 in the Action only indicates that sensors

are included for sensing when drawers of the Lavigne carrier have been opened. Nothing in

Lavigne discloses or suggests that in response to sensing the opening of a drawer, a lock

condition is changed so that the door will be locked the next time it is closed, as is specifically

recited in claim 3.

Hence, Lavigne cannot overcome the deficiencies of Colson '450 as it does not disclose

or suggest the recited features which are admittedly absent in Colson '450.

Claim 24

Appellants traverse the rejection on the grounds that neither of the references is prior art

against claim 24. Appellants also traverse the rejection on the grounds that the claim also recites

features which are neither disclosed nor suggested in the prior art, and because there is no

teaching, suggestion, or motivation cited so as to produce Appellants' invention.

As previously discussed, Colson '450 and Lavigne are each not prior art against claim 24.

Claim 24 also recites numerous features and relationships that are not found in either Colson '450

or Lavigne. Lavigne cannot overcome the deficiencies of Colson '450 as it does not disclose or

suggest all of the recited features and relationships which are not found in Colson '450. Neither of the references, taken alone or in combination, teach or suggest the recited features and relationships. Appellants' remarks, concerning the rejection of claim 24 by the Colson '450 reference alone and by the Lavigne reference alone, are herein incorporated by reference.

The Action does not address claim 24, nor the relied upon features in Lavigne that are necessary to overcome the inferred deficiencies of the Colson '450 reference. Nor has any teaching, suggestion, or motivation been cited to produce Appellants' claimed features and relationships. Appellants refuse to speculate concerning the unstated reasoning for the rejection of claim 24.

Claim 25

Claim 25 depends from claim 24 and further recites that "the lock module further includes a door sensor in operative connection with the door and the computer." Claim 25 also recites that a "latching device is operative to hold the lock module in the unlocked position responsive to the signal." Claim 25 further recites that "the computer is operative to cause the output of a further signal, wherein the further signal changes the lock module to a locked condition and thereafter the latching device holds the lock module in the locked condition." Claim 25 further recites that "the computer is operative to cause the further signal to be output responsive to the earlier of at least one of the door sensor sensing opening of the door and the passage of a time delay period after output of the signal without the door sensor sensing opening of the door."

The Action admits that Colson '450 does not disclose "a door sensor; door is operative to generate an open signal responsive to the door opening." Appellants respectfully submit that

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Colson '450 lacks many more of the recited features and relationships. For example, Colson '450 does not use data representative of an authorized user. Colson '450 also does not use data representative of an authorized user stored in a data store. Furthermore, Colson '450 does not disclose the capability of checking whether a user is an authorized user. Colson '450 also does not disclose enabling the input of data corresponding to a medical item, in response to the user inputted identification data corresponding to an authorized user data. There is no disclosure or suggestion whatsoever in Colson '450 of a computer in connection with a data store with authorized user data, data representative of medical items, and data corresponding to storage locations where medical items are stored. Also, Colson '450 does not disclose or suggest the input of indicia corresponding to a medical item through an input device, nor having such input data cause a computer to unlock a lock. Furthermore, Colson '450 does not disclose passage of a period of time measured after the output of the signal. Nor does Colson '450 determine the earlier of either sensing the opening of a door or the passage of the time delay period.

The recited features of which Lavigne lacks in relation to claim 25 have been previously discussed. Appellants' remarks, concerning the alleged anticipation and obviousness rejections of claim 25 by the Lavigne reference, are herein incorporated by reference. Hence, Lavigne cannot overcome the deficiencies of Colson '450 as it also does not disclose or suggest all of the recited features and relationships which are not found in Colson '450.

The Action alleges that Lavigne "discloses a door sensor with the door operative to generate an open signal responsive to the door opening." The Action also alleges that it "would have been obvious to use a sensor to detect the opening of the door as a means of saving power and recording removal of the item as taught by Colson" '450. Appellants respectfully disagree.

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The Action admits that Colson '450 does not disclose the features and relationships of a door sensor in the manner recited. Appellants respectfully submit that Lavigne also does not teach or suggest the features and relationships of a door sensor in the manner recited. Nor does Lavigne teach or suggest a computer operative responsive to a sensor sensing opening of a door to change a lock module to a locked condition. Nor does Lavigne teach or suggest the passage of a period of time measured after the output of the signal. Nor does Lavigne determine the earlier of either sensing the opening of a door or the passage of the time delay period. Nor does Lavigne teach or suggest a computer operative responsive to such determination to change a lock module to a locked condition. Hence, Lavigne cannot overcome the deficiencies of Colson '450 as it does not disclose or suggest the recited features and relationships which are not found in Colson '450.

In Lavigne, if the temperature goes out of range the controller operates a locking solenoid (139) which operates to lock the door (21) to hold it in a closed position (Col. 11, lines 37-43; Col. 7, lines 24-26). That is, the controller of Lavigne operates the locking solenoid (139) based on sensing temperature conditions, not on sensing whether the door was opened or the passage of a time delay period. Lavigne's door (21) may be opened many times without initiating the locking solenoid (139) (Col. 9, lines 7-10; Col. 14, lines 34-37; Col. 12, lines 15-18).

The Lavigne system senses the opening of a door to record an event in memory. However, neither Colson '450 nor Lavigne disclose or suggest that the sensing of a door opening or that the "passage of a time delay period" causes a lock to be held in a locked condition. Nothing in Colson '450 or Lavigne discloses or suggests that, in response to sensing the opening

of a drawer or the passage of a time delay period, a lock module is changed to a locked condition and held in the locked condition, as is specifically recited in claim 25.

Neither Colson '450 nor Lavigne, taken alone or in combination, disclose or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness. Furthermore, even if it were somehow possible for the references to be combined as alleged, the combination still would not have resulted in the claimed invention. Thus, it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

The Pending Claims Are Not Obvious Over Blechl In View of Weinberger (Issue #12)

Claims 45-47 were rejected under 35 U.S.C. § 103(a) as obvious over Blechl in view of Weinberger. These rejections are respectfully traversed.

Claim 45

Claim 45 is an independent claim which is specifically directed to a "system for providing medical items." The claim specifically recites that "the computer is in operative connection with the data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored." The claim further recites that "responsive to a user inputting through the at least one input device identification data corresponding to data for an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to a medical item through the at least one input device,

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and wherein the computer is operative responsive to input of the item indicia to output the at least one signal changing the lock to the unlocked condition." Neither Blechl nor Weinberger taken alone or in combination disclose or suggest the features and relationships that are specifically recited in the claim.

Blechl does not disclose or suggest a computer in operative connection with a data store that includes data for a plurality of authorized users. Indeed, the express description of Blechl's operation makes clear that Blechl does not include a data store which holds information for a plurality of authorized users. Instead, Blechl has each user insert a magnetic card which is read by a card reader. Blechl's device then requires the user to input a personal identification number (PIN). The inputted PIN is then compared to the card which is read and if there is a match, access is allowed (Col. 4, lines 23-34; Col. 9, lines 13-19). As a result Blechl makes it very clear that it has no computer connected to a data store holding data for a plurality of authorized users.

Blechl uses a card containing data (corresponding to the user's PIN) for a single user, not a data store holding data for a plurality of authorized users. Blechl simply compares the card data with the PIN inputted by a single user to determine if the system may be operated by that particular user. The inputted PIN is only compared to the data on the card. The inputted card data and PIN are not compared via a computer to the card data and PINs of a plurality of authorized users stored in a data store. Furthermore, the routines from which the user is authorized to select are determined by the routine information programmed into the card. Blechl, at best, uses microprocessing means to compare the card data (for a single user) to the inputted PIN. Therefore, Blechl does not disclose a computer in operative connection with a data store, especially where the data store includes user data representative of a plurality of authorized users.

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Furthermore, there is no teaching, suggestion, or motivation in Blechl for comparing inputted

user identification data to data in a data store containing data for a plurality of authorized users.

Weinberger does not disclose or suggest a computer in operative connection with a data

store, wherein the data store includes user data representative of a plurality of authorized users.

Weinberger cannot overcome the deficiencies of Blechl as it does not disclose or suggest the

recited features which are absent in Blechl. Thus, even if it were somehow possible for the

references to be combined as alleged, the combination still would not have resulted in the

claimed invention.

Blechl suggests that an IC card or a magnetic card need not be used alone to initiate drug

dispensing from the device, but that additional input means (e.g., a PIN) may be used in

conjunction with the card (Col. 4, lines 20-34; Col. 9, lines 13-19). For example, a personal

identification number (numerical password) may be used with the card so that if the data on the

card matches the input numerical password, drugs can be dispensed (Col. 9, lines 13-19). Blechl

also suggests that more secure operation control means may be used in conjunction with the card

when extremely sensitive drugs are involved (Col. 4, lines 34-36). The more secure means may

involve finger print or retina scan (Col. 4, lines 34-36), or passwords, fingerprints, voice

identification, or hand prints (Col. 8, lines 60-68). The data for the additional operation control

means, like the PIN, is stored on the card. Blechl provides no other embodiments for enabling

operation of his device other than by using a card with data stored thereon. Furthermore, Blechl

provides no disclosure or suggestion of using a computer in operative connection with a data

store, wherein the data store includes user data representative of a plurality of authorized users.

Furthermore, claim 45 specifically recites that "the computer is in operative connection with the data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored." That is, the recited data store includes data representative of (1) a plurality of authorized users, (2) a plurality of medical items, and (3) storage locations in which the medical items are stored. Appellants respectively submit that Blechl's card does not include data representative of (1), (2), or (3). It follows that Blechl's card does not include data representative of (1), (2), and (3). Nor does Blechl disclose or suggest that a "computer is in operative connection with a data store" which includes data representative of (1), (2), and (3).

Weinberger does not disclose or suggest a data store including data representative of a plurality of authorized users, a plurality of medical items, and storage locations in which the medical items are stored. Hence, Weinberger cannot overcome the deficiencies of Blechl as it does not disclose or suggest the recited features which are absent in Blechl. Again, even if it were somehow possible for the references to be combined as alleged, the combination still would not have resulted in the claimed invention.

Furthermore, claim 45 specifically recites "a user interface in operative connection with the computer, wherein the interface includes at least one input device." Claim 45 further recites that a user is capable of "inputting through the at least one input device identification data corresponding to data for an authorized user stored in the data store." Claim 45 further recites that a user is capable of inputting "item indicia corresponding to a medical item through the at least one input device." That is, the user is capable of inputting both "identification data" and

"item indicia" "through the at least one input device." In Blechl the user identification unit (247) is specifically designed to be separate from the medication input unit (248). Note Col. 8, lines 45-51, and Figures 12 and 19.

Claim 45 further recites that responsive to input of data corresponding to one of the plurality of authorized users stored in the data store, the computer of the recited invention enables a user to input item indicia corresponding to a medical item through at least one input device. The Action asserts that Blechl has an input device at Col. 4, lines 39-50. This portion of Blechl does not stand for the proposition asserted in the Action. Instead it talks about a mechanic or pharmacist accessing the interior of Blechl's device. It is discussed that such a mechanic or pharmacist can gain access by inputting a matching card and PIN and allowing a door (38) to be opened through a touch screen (30) and operation of a processor. However, there is no disclosure that the touch screen is only enabled to receive inputs in response to prior receipt of a matching card and PIN. There is certainly no disclosure or suggestion that the mechanic or pharmacist inputs through the touch screen, indicia corresponding to a particular medical item. Indeed there is no particular medical item that is accessed by opening the door (38). As Blechl does not disclose these features and relationships which are expressly recited in claim 45, the claim is further allowable on this basis.

Weinberger does not disclose or suggest that responsive to input of data corresponding to one of the plurality of authorized users stored in a data store, a computer enables a user to input item indicia corresponding to a medical item through at least one input device. Hence, Weinberger cannot overcome the deficiencies of Blechl as it does not disclose or suggest the recited features which are absent in Blechl. Again, even if it were somehow possible for the

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references to be combined as alleged, the combination still would not have resulted in the claimed invention.

In the Action only the features of Blechl are cited as allegedly pertinent to claim 45. No specific features of Weinberger have been cited as applying to claim 45. However, because no 35 U.S.C. § 102 type of rejection was presented against claim 45 based on Blechl, the Action inherently admits that Blechl does not anticipate claim 45. As the Action cites no source of teaching, suggestion, or motivation to modify the deficient Blechl reference so as to produce the recited claim, the Action does not present a valid 35 U.S.C. § 103(a) rejection.

The Office has not established a *prima facie* showing of obviousness. Neither Blechl nor Weinberger, taken alone or in combination, disclose or suggest the recited features and relationships. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention. It is respectfully submitted that claim 45 and the claims (claims 46-47) that depend therefrom are allowable.

Claim 46

Claim 46 depends from claim 45 and further recites that the lock comprises a visual indicator which provides an indication responsive to at least one signal that the door is enabled to be opened. The Action admits that Blechl does not teach or suggest the recited features. The Action relies on Weinberger at Col. 7, lines 13-34 as disclosing the features. Appellants respectfully submit that the relied upon section of Weinberger does not disclose or suggest a lock comprising a visual indicator, nor a visual indicator providing a visual indication in response to at least one signal from a computer that a door is enabled to be opened.

The Action apparently asserts that Weinberger includes a lock module which provides a visual signal that directs a user to a correct door/drawer. Appellants respectfully disagree. No portion of Weinberger is cited for this teaching. Nor does Weinberger disclose the alleged features. Nor is there any teaching, suggestion, or motivation for combining features of Weinberger with features of Blechl as presented in the Action.

Neither Blechl nor Weinberger, taken alone or in combination, disclose or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

Claim 47

Claim 47 depends from claim 45 and further recites that the lock comprises a door sensor. The door sensor is operative to generate an open signal responsive to opening the door. A computer operates responsive to the open signal to change the lock to the locked condition. As a result, when the door is next returned to a closed condition, the door is held closed.

The Action admits that Blechl does not teach or suggest the recited features. The Action relies on Weinberger at Col. 13, lines 20-30 as disclosing the features. However, Weinberger does not disclose or suggest the recited features. Weinberger at Col. 13, lines 20-30 refers to an opening sensed by a switch to display a messages such as "confirm to continue" and "close cover to continue." The relied upon section of Weinberger is not directed to a lock comprising a door sensor that can generate an open signal responsive to the door opening, to cause the lock to change to the locked condition. Weinberger does not link sensing a door opening to placing a lock in a locked condition.

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The Action apparently asserts that Weinberger includes a computer to lock a door responsive to a sensor indicating door closure. However, claim 47 enables changing the lock to a locked condition upon opening of the door. Locking a door upon opening differs from the alleged modification of locking a door upon closing.

Claim 47 recites that "the door sensor is operative to generate an open signal responsive to opening the door, and wherein the computer is operative responsive to the open signal to change the lock to the locked condition, wherein when the door is next returned to a closed condition the door is held therein."

In Blechl, the user manually closes the door/drawer. The "latch mechanism secures the drawer and communicates to the microprocessing means that the drawer has been closed" (Col. 9, lines 56-64). That is, at best, a closed door signal is generated, not an open door signal as recited.

Blechl's computer is not operative responsive to an open signal. Nor does it appear that Blechl's computer is even operative responsive to a closed signal. It follows that Blechl's computer is not responsive to an open signal to change a lock to a locked condition. Contrarily, in Blechl the microprocessor is notified only after the door/drawer has been closed and apparently after the door/drawer has already been locked (secured). Hence, there is no need for the computer to change the lock to the locked condition.

The claim further recites that the computer changes the lock to the locked condition so that "when the door is next returned to a closed condition the door is held therein." That is, the computer places the lock in the locked condition prior to the door being returned to the closed condition. In Blechl, a "latch mechanism secures the drawer and communicates to the

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microprocessing means that the drawer <u>has</u> been closed" (Col. 9, lines 56-64). That is, in Blechl's system the door is first closed and secured, then the microprocessing means is notified. Blechl does not teach or suggest, nor does Blechl appear capable of, the microprocessing means initiating a locked condition prior to the door being closed. Nor does Blechl teach or suggest the microprocessing means initiating a locked condition prior to the door being closed in response to the door being open.

The Action states that "It would have been obvious for Blechl to have the computer to lock the door responsive to a sensor indicating door <u>closure</u> because locking the door can reduce unauthorized access as taught by Weinberger." It is noted that the Action refers to "a sensor indicating door <u>closure</u>." However, claim 47 clearly recites that the "door sensor is operative to generate an open signal responsive to <u>opening</u> the door." It is respectfully submitted that the Action's starting basis for obviousness is completely opposite to the recited claim language. Thus, even if the references were combined in the manner alleged, the combination would still fall short of the claimed invention.

As noted above, Blechl lacks many of the recited features and relationships. Weinberger also does not disclose or suggest that a "door sensor is operative to generate an open signal responsive to opening the door", nor that a "computer is operative responsive to the open signal to change the lock to the locked condition", nor that "when the door is next returned to a closed condition the door is held therein." No portion of Weinberger is cited for these recited features and relationships. Nor is it seen where Weinberger discloses such alleged features and relationships. Further, no teaching, suggestion, or motivation for combining features of Weinberger with features of Blechl is presented in the Action. Hence, Weinberger cannot

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overcome the deficiencies of Blechl as it does not disclose or suggest the recited features and relationships which are absent in Blechl.

Neither Blechl nor Weinberger, taken alone or in combination, disclose or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

The Pending Claims Are Not Obvious Over Colson '297 In View Of Lavigne (Issue #13)

Claims 45-47 were rejected under 35 U.S.C. § 103(a) as obvious over Colson '297 in view of Lavigne. These rejections are respectfully traversed.

As previously discussed, <u>Lavigne does not constitute prior art</u> with regard to at least claim 45. The Advisory Action dated November 7, 2000 also indicated that the rejection involving Lavigne in relation to claim 45 was overcome by the Declaration. Hence, the rejection of claim 45 pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '297 in view of Lavigne is overcome.

If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious (MPEP 2143.03). Hence, the rejection of claims 46-47 pursuant to 35 U.S.C. § 103(a) as being unpatentable over Colson '297 in view of Lavigne is likewise overcome.

Appellants also traverse the rejections on the grounds that neither of the references, taken alone or in combination, teach or suggest the recited features and relationships. Appellants'

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previous remarks, concerning the deficiency of the Colson '297 reference alone with regard to the

obviousness rejections of claims 45-46, are herein incorporated by reference.

The Action's reference to a latching device is moot, as a latching device does not appear

in claims 45-47.

Claim 45

As previously discussed, Lavigne does not constitute prior art. Appellants' previous

remarks (Issue #9), concerning the deficiency of the Colson '297 reference alone with regard to

the obviousness rejection of claim 45, are herein incorporated by reference.

The discussion in the rejection suggests that it is addressing only the features recited in

claims 46-47. This is because only these claims respectively mention a "visual indicator" and a

"door sensor." The Action is silent regarding claim 45, especially which recited features are

absent in Colson '297 and the application of Lavigne.

Appellants refuse to speculate as to possible rationales for the rejection of claim 45. The

Patent Office bears the burden of showing in the cited art a specific teaching, suggestion or

motivation to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, supra. A

teaching, suggestion or motivation to combine features in prior art references must be clearly and

particularly identified in such prior art to support a rejection on the basis of obviousness. *In re*

Dembiczak, supra. A statement of rejection must explain with reasonable specificity the

rejection, otherwise (as in the current situation) the Action procedurally fails to establish a *prima*

facie case of obviousness. *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989).

Appellants have reviewed the references cited and have determined that the cited

references, taken individually or as a whole, clearly do not teach or suggest the invention recited

in claim 45. Therefore, the claim would not have been obvious to one having ordinary skill in the art.

Claim 46

Claim 46 depends from claim 45 and further recites that the lock comprises a visual indicator which provides an indication responsive to at least one signal that the door is enabled to be opened.

The Action admits (on page 11, lines 11-12) that Colson '297 does not disclose or suggest a lock comprising a visual indicator. Colson '297 also does not disclose or suggest a visual indicator for providing an indication that a door is enabled to be opened in the manner recited. Appellants' previous remarks (Issue #9), concerning the deficiency of the Colson '297 reference , alone with regard to the obviousness rejection of claim 46, are herein incorporated by reference.

Appellants' previous remarks (Issue #7), concerning the deficiency of the Lavigne reference alone with regard to the obviousness rejection of claim 2, are herein incorporated by reference. As previously discussed, Lavigne does not disclose or suggest a lock comprising a visual indicator. Lavigne also does not disclose or suggest a visual indicator for providing an indication that a door is enabled to be opened. Hence, Lavigne cannot overcome the admitted deficiencies in Colson '297 as it also does not disclose or suggest the recited features and relationships.

Neither of the references, taken alone or in combination, disclose or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

Claim 47

Claim 47 depends from claim 45 and further recites that the lock comprises a door sensor. The door sensor is operative to generate an open signal responsive to opening the door. A computer operates responsive to the open signal to change the lock to the locked condition. As a result, when the door is next returned to a closed condition, the door is held closed.

The Action (on page 11) admits that Colson '297 does not disclose or suggest a door sensor, nor a door sensor operative to generate an open signal responsive to a door opening.

Appellants' previous remarks (Issue #7), concerning the deficiency of the Lavigne reference alone with regard to the obviousness rejection of claim 3, are herein incorporated by reference. As previously discussed, Lavigne does not disclose or suggest a computer operative responsive to an open door signal to change a lock module to a locked condition. Lavigne also does not disclose or suggest that in response to sensing the opening of a drawer, a lock condition is changed so that the door will be locked the next time it is closed. Hence, Lavigne cannot overcome the admitted deficiencies in Colson '297 as it also does not disclose or suggest the recited features and relationships.

Neither of the references, taken alone or in combination, disclose or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

The Pending Claims Are Not Obvious Over Lavigne In View Of Engleson

(Issue #14)

Claims 16-20 were rejected under 35 U.S.C. § 103(a) as obvious over Lavigne in view of Engleson. These rejections are respectfully traversed.

The Action admits that Lavigne does not teach or suggest the features and relationships recited in the claims.

Claim 16

Claim 16 depends from claim 1. Appellants' previous remarks (Issue #7) against the obviousness rejection of claim 1 based on the Lavigne reference alone are herein incorporated by reference. Engleson cannot alleviate the deficiencies of Lavigne as it does not teach or suggest the recited features and relationships not found in Lavigne. Neither of the references, taken alone or in combination, teach or suggest the recited invention.

The Action relies on Engleson's barcode reader (90), which is connected to a bedside CPU (80) (Col. 6, lines 14-17). The Action is silent as to how Engleson's bedside barcode reader (90) enables a user to input indicia corresponding to a medical item therethrough such that the CPU (80) is responsive to the input to output a signal changing a refrigerator lock module to an unlocked condition. Where does Engleson discuss a refrigerator and a lock module attached to the refrigerator? It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

Claim 17

Claim 17 depends from claim 16. Engleson does not teach or suggest a refrigerator with machine readable indicia thereon, especially at the relied upon Col. 6, lines 14-25. The Office has not established a *prima facie* showing of obviousness. It follows that even if it were somehow possible for the references to be combined as alleged, the combination would not have resulted in the claimed invention.

Claim 18

Claim 18 depends from claim 16. Engleson does not teach or suggest a report having machine readable indicia thereon. The relied upon section (Col. 12, lines 45-65) of Engleson is directed to a label. Engleson distinguishes a report from a label. For example, note Engleson's mention of a report at Col. 5, lines 26-33; Col. 2, lines 28-31; and Col. 4, lines 50-59. The Office has not established a *prima facie* showing of obviousness.

Claim 19

Claim 19 depends from claim 18. Engleson does not teach or suggest a computer operative to cause a printer to print a report having machine readable indicia thereon, where item indicia can be input by reading the machine readable indicia on the report, and where the computer is responsive to the input of the item indicia to output a signal changing a lock module to an unlocked condition. Thus, Engleson cannot alleviate the deficiencies of Lavigne as it does not teach or suggest the recited features and relationships not found in Lavigne.

Claim 20

Claim 20 depends from claim 16. Neither of the references, taken alone or in combination, teach or suggest an interior area of a refrigerator having machine readable indicia,

nor the ability to include data of a medical item taking in a data store responsive to reading the indicia. The Office has not established a *prima facie* showing of obviousness.

The Pending Claims Are Not Obvious Over Colson '450 in view of Iwamoto (Issue #15)

Claims 4-8 were rejected under 35 U.S.C. § 103(a) as obvious over Colson '450 in view of Iwamoto. These rejections are respectfully traversed. The Action's reference to claim 40 is viewed as a typographical error, and has been disregarded.

The Action admits that Colson '450 does not teach or suggest the features and relationships recited in the claims.

Claim 4

Claim 4 depends from claim 1. Appellants' previous remarks (Issue #3) against the anticipation rejection of claim 4 based on the Colson '450 reference alone are herein incorporated by reference. Iwamoto cannot alleviate the deficiencies of Colson '450 as it does not teach or suggest the recited features and relationships not found in Colson '450. Neither of the references, taken alone or in combination, teach or suggest the recited invention.

Neither of the references, taken alone or in combination, teach or suggest a lock module, which can be unlocked responsive to a computer signal, that also comprises a manual unlocking mechanism. Where does Colson '450 discuss use of a computer, especially in outputting an unlocking signal (claim 1)?

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Claim 5

Claim 5 depends from claim 4. Neither of the references, taken alone or in combination, teach or suggest a system for providing medical items having the recited relationships of a refrigerator lock module, a movable lever, a solenoid, a catch, a pawl, where the catch is engageable to hold the pawl, and where the pawl is operatively engageable with the refrigerator door. Thus, even if it were somehow possible for the references to be combined as alleged, the combination still would not have resulted in the claimed invention.

Claim 6

Claim 6 depends from claim 5. As previously discussed, Iwamoto does not teach or suggest the recited features of claim 5/4/1 that are not found in Colson '450. It follows that the combined references cannot produce the recited solenoid, lever, and manual unlocking mechanism arrangement of claim 6.

Claim 7

Claim 7 depends from claim 5. As previously discussed, Iwamoto does not teach or suggest the recited features of claim 5/4/1 that are not found in Colson '450. It follows that the combined references cannot produce the recited tapered step of claim 7.

Claim 8

Claim 8 depends from claim 5. The Action is silent as to what element in Iwamoto constitutes the recited manual unlocking mechanism cylinder, and the projection rotatable in engagement with the cylinder. Nor does Iwamoto teach or suggest the recited features. It follows that the combined references would not have resulted in the recited invention of claim 8.

The Pending Claims Are Not Obvious Over Colson '450 in view of Warren

(Issue #16)

Claim 23 was rejected under 35 U.S.C. § 103(a) as obvious over Colson '450 in view of Warren. This rejection is respectfully traversed.

The Action admits that Colson '450 does not teach or suggest the features and relationships recited in the claim.

Claim 23

Claim 23 depends from claim 1. Neither of the references, taken alone or in combination, teach or suggest the recited features and relationships. As previously discussed (e.g., remarks to rejections of claims 12 and 24), Colson '450 does not teach or suggest a lock module attached to an exterior surface of a refrigerator. Warren is directed to a file cabinet, not a system for providing medical items. Warren does not teach or suggest a lock module attached to an exterior surface of a refrigerator. The Office has not established a *prima facie* showing of obviousness. It follows that it would not have been obvious to one having ordinary skill in the art to have attached a lock module including a retrofit assembly to an exterior surface of a refrigerator in the manner recited to have produced the recited invention.

The Pending Claims Are Not Obvious Over Colson '450 in view of Holmes

(Issue #17)

Claims 9, 16-17, 20, and 22 were rejected under 35 U.S.C. § 103(a) as obvious over Colson '450 in view of Holmes. These rejections are respectfully traversed.

The Action admits that Colson '450 does not teach or suggest the features and relationships recited in the claims.

Claim 9

Claim 9 depends from claim 1. The Action (at page 9, last paragraph) admits that Colson '450 does not disclose "a door sensor; door (sensor) is operative to generate an open signal responsive to the door opening." Holmes does not teach or suggest a sensor that can generate an open signal responsive to opening a refrigerator door to cause the storing of data representative of the opening. Hence, Holmes cannot overcome the deficiencies of Colson '450 as it does not disclose or suggest the recited features which are admittedly absent in Colson '450. Thus, the combination of references would not have resulted in the recited invention.

Claim 16

Claim 16 depends from claim 1. Neither of the references, taken alone or in combination, teach or suggest the ability to input item indicia through a reading device of a system to provide medical items in the manner recited.

Claim 17

Claim 17 depends from claim 16. Neither of the references, taken alone or in combination, teach or suggest a refrigerator having machine readable indicia thereon. The relied upon section (Col. 6, lines 19-25) of Holmes refers to a card reader, not machine readable indicia on a refrigerator. The Office has not established a *prima facie* showing of obviousness.

Claim 20

Claim 20 depends from claim 16. Neither of the references, taken alone or in combination, teach or suggest an interior area of a refrigerator having machine readable indicia

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therein, such that a user is enabled to read the machine readable indicia after opening the refrigerator door, and a computer is operative responsive to the reading to include data in a data store representative of taking a medical item from the interior area. It follows that it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

Claim 22

Claim 22 depends from claim 9. Neither of the references, taken alone or in combination, teach or suggest the ability to store data representative of a refrigerator door not being opened, responsive to a refrigerator lock module being returned to the locked condition after being in the unlocked condition and the door not opened for a period of time. The Office has not established a *prima facie* showing of obviousness.

The Pending Claims Are Not Obvious Over Lavigne in view of Holmes
(Issue #18)

Claims 9, 16-17, 20, 22, and 42-44 were rejected under 35 U.S.C. § 103(a) as obvious over Lavigne in view of Holmes. These rejections are respectfully traversed.

By inference the Office admits that Lavigne does not teach or suggest the recited features and relationships of claims 9, 16-17, 20, 22, and 42-44. As previously discussed (Issue #18), Holmes does not teach or suggest the recited features and relationships of claims 9, 16-17, 20, and 22. It follows that it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited subject matter of claims 9, 16-17, 20, and 22.

Claim 42

Method claim 42 depends from claim 27. As previously discussed (Issue #2, claim 37), Lavigne does not teach or suggest comparing (with a computer) inputted user data to authorized users data stored in a data store. Neither of the references, taken alone or in combination, teach or suggest generating a signal with a computer, responsive to not sensing opening of the refrigerator door after a time period, where the signal is operative to cause the lock module to hold the door in a closed position. The Office has not established a *prima facie* showing of obviousness.

Claim 43

Method claim 43 depends from claim 42. The Action is silent as to where Holmes teaches or suggests the recited features and relationships of claim 43. Nevertheless, neither of the references, taken alone or in combination, teach or suggest storing in a data store data representative of a door being enabled to open by the one authorized user, and not being opened.

Claim 44

The Action is silent as to where the references teach or suggest the recited features and relationships of claim 44. As previously discussed (Issue #2), Lavigne does not teach or suggest the recited features and relationships of claim 44. As previously discussed, nothing in Lavigne teaches or suggests controlling a housing structure lock to selectively open in response to an inputted medical item type corresponding to a medical item placed in the housing structure. As previously discussed, Lavigne makes amply clear that the door (21) of his medication carrier is always unlocked except in circumstances when an out of range temperature condition has been

sensed, in which case the door will lock because a temperature violation (which could have damaged the medications) has occurred (see Col. 11, lines 37-43).

Holmes cannot alleviate the deficiencies of Lavigne as it does not teach or suggest the recited features and relationships not found in Lavigne. Holmes does not teach or suggest controlling a housing structure lock to selectively open in response to an inputted medical item type corresponding to a medical item placed in the housing structure. It follows that it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention of claim 44.

The Pending Claims Are Not Obvious Over Halvorson in view of McDonald (Issue #19)

Claim 45 was rejected under 35 U.S.C. § 103(a) as obvious over Halvorson in view of McDonald. This rejection is respectfully traversed.

The Action admits that Halvorson does not teach or suggest the features and relationships recited in the claim.

Claim 45

Neither of the references, taken alone or in combination, teach or suggest the recited features and relationships. Halvorson teaches that the "preferred dispensing station will have a dispenser 32 which contains a plurality of medications that may be automatically dispensed to authorized personnel on demand" (Col. 4, lines 27-32). That is, a nurse can request (demand) and then receive the medication. A nurse using McDonald's system enters an authorized access code. Apparently, the same code is used by all nurses. Neither reference teaches or suggests a

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data store including user data representative of a plurality of authorized users. Neither reference inputs authorized user identification data. Neither reference compares an inputted user identification to a plurality of authorized users. Neither of the references teach or suggest that responsive to input of data corresponding to one of the plurality of authorized users stored in a data store, a computer enables a user to input item indicia corresponding to a medical item through an input device, and the computer is operative responsive to the indicia input to output the at least one signal changing a lock to an unlocked condition.

Where do the combined references teach or suggest a data store including user data representative of a plurality of authorized users? Where do the combined references teach or suggest that after a user's inputted identification data corresponds to one of many authorized users, a computer enables the user to input medical item indicia, and the computer can cause the unlocking of a lock responsive to the inputted indicia? Where do the references teach or suggest the ability to input medical item indicia responsive to a user's inputted identification matching data from a plurality of authorized users? Where do the references teach or suggest the ability to unlock a lock responsive to the input of item indicia by a matched authorized user? In McDonald, unlocking of the drawer lock (40) is related to seeing the patient's (not an authorized user's) identification. The Office has not established a *prima facie* showing of obviousness.

The Action's statement about changing McDonald's "lock module (40) to the locked condition", and modifying Halvorson in such manner, is moot because claim 45 is directed to changing the lock to the unlocked condition. That is, even if it were somehow possible to have modified Halvorson "to have the computer lock the door" as alleged, it still would not have resulted in the recited invention as claim 45.

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The Pending Claims Are Not Obvious Over Halvorson in view of Weinberger

(Issue #20)

Claims 45-47 were rejected under 35 U.S.C. § 103(a) as obvious over Halvorson in view of Weinberger. These rejections are respectfully traversed.

The Action admits that Halvorson does not teach or suggest the features and relationships recited in the claims.

Claim 45

As previously discussed (Issue #19), Halvorson does not teach or suggest the recited features and relationships of claim 45. Weinberger is directed to a time scheduled medicine dispenser for a patient not under immediate supervision (e.g., a home-care patient). Weinberger cannot alleviate the deficiencies of Halvorson as it does not teach or suggest the recited features and relationships not found in Halvorson.

Neither of the references teach or suggest a data store including user data representative of a plurality of authorized users. Neither of the references teach or suggest that responsive to input of data corresponding to one of the plurality of authorized users stored in a data store, a computer enables a user to input item indicia corresponding to a medical item through at least one input device. The cited sections of Weinberger are not pertinent to that for which they are relied upon. The Office has not established a *prima facie* showing of obviousness.

Neither of the references, taken alone or in combination, teach or suggest the recited features and relationships. Thus, even if it were somehow possible for the references to be combined as alleged, the combination still would not have resulted in the claimed invention. It

follows that it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention of claim 45.

Claim 46

Claim 46 depends from claim 45 and further recites that the lock comprises a visual indicator which provides an indication responsive to at least one signal that the door is enabled to be opened. The Action relies on Weinberger for teaching a lock comprising a visual indicator. However, the relied upon section (Col. 7, lines 13-34) of Weinberger does not appear pertinent to the recited subject matter. The relied upon section relates to loading the dispenser, not to providing a visual indication (via a lock's visual indicator) that a door is enabled to be opened. Weinberger does not teach or suggest the recited lock comprising a visual indicator. Nor has the Office established a *prima facie* showing of obviousness.

Claim 47

Claim 47 depends from claim 45 and further recites that the lock comprises a door sensor. The door sensor is operative to generate an open signal responsive to opening the door. A computer operates responsive to the open signal to change the lock to the locked condition. As a result, when the door is next returned to a closed condition, the door is held closed.

The Action relies on Weinberger for teaching the recited door sensor and relationships. However, Weinberger does not teach or suggest the recited door sensor arrangement, especially at Col. 13, lines 20-30). Neither of the references teach or suggest a computer operative responsive to an open door signal to change a lock module to a locked condition. Neither of the references teach or suggest that in response to sensing the opening of a drawer, a lock condition is changed so that the door will be locked the next time it is closed. The Office has not

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established a *prima facie* showing of obviousness. It follows that it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention of claim 47.

The Pending Claims Are Not Obvious Over Colson '450 in view of Gombrich (Issue #21)

Claims 16-20 were rejected under 35 U.S.C. § 103(a) as obvious over Colson '450 in view of Gombrich. These rejections are respectfully traversed.

The Action admits that Colson '450 does not teach or suggest the features and relationships recited in the claims.

The Action's (page 17, line 3) single reference to Iwamoto is viewed as a typographical error, and has been disregarded.

Claim 16

Claim 16 depends from claim 1. Neither of the references, taken alone or in combination, teach or suggest the ability to input item indicia through a reading device of a system to provide medical items in the manner recited. Nor can Gombrich alleviate the previously discussed (e.g., claim 1) deficiencies of Colson '450.

Claim 17

Claim 17 depends from claim 16. Neither of the references, taken alone or in combination, teach or suggest a refrigerator having machine readable indicia thereon. The relied upon section (Col. 8, lines 4-30) of Gombrich does not refer to machine readable indicia or to a refrigerator. Where does the Gombrich reference even mention a refrigerator? Gombrich does

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not teach or suggest the features for which it was relied upon. The Office has not established a *prima facie* showing of obviousness.

Claim 18

Claim 18 depends from claim 16. Neither of the references, taken alone or in combination, teach or suggest the ability to read machine readable indicia on a report in the manner recited. Nor can Gombrich alleviate the previously discussed (e.g., claim 1) deficiencies of Colson '450.

Claim 19

Claim 19 depends from claim 18. Neither of the references, taken alone or in combination, teach or suggest the ability of a computer to cause a printer to print a report in the manner recited. Nor can Gombrich alleviate the previously discussed (e.g., claim 1) deficiencies of Colson '450.

Claim 20

Claim 20 depends from claim 16. Neither of the references, taken alone or in combination, teach or suggest an interior area of a refrigerator having machine readable indicia therein, such that a user is enabled to read the machine readable indicia after opening the refrigerator door, and a computer is operative responsive to the reading to include data in a data store representative of taking a medical item from the interior area. Gombrich does not teach or suggest the features for which it was relied upon, especially at Col. 8, lines 4-30. It follows that it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

The Pending Claims Are Not Obvious Over Lavigne in view of Iwamoto

(Issue #22)

Claims 4-10 were rejected under 35 U.S.C. § 103(a) as obvious over Lavigne in view of Iwamoto. These rejections are respectfully traversed.

The Action admits that Lavigne does not teach or suggest the features and relationships recited in claims 4-10.

Claim 4

Claim 4 depends from claim 1. Iwamoto cannot alleviate the deficiencies of Lavigne as it does not teach or suggest the recited features and relationships not found in Lavigne. Neither of the references, taken alone or in combination, teach or suggest a refrigerator lock module which can be both unlocked responsive to a computer signal (e.g., claim 1) and manually unlocked.

Claim 5

Claim 5 depends from claim 4. Neither of the references, taken alone or in combination, teach or suggest a system for providing medical items having the recited relationships of a refrigerator lock module, a movable lever, a solenoid, a catch, a pawl, where the catch is engageable to hold the pawl, and where the pawl is operatively engageable with the refrigerator door. Thus, even if it were somehow possible for the references to be combined as alleged, the combination still would not have resulted in the claimed invention.

Claim 6

Claim 6 depends from claim 5. As previously discussed, Iwamoto does not teach or suggest the recited features of claim 5/4/1 that are not found in Lavigne. It follows that the

combined references cannot produce the recited solenoid, lever, and manual unlocking

mechanism arrangement of claim 6.

Claim 7

Claim 7 depends from claim 5. As previously discussed, Iwamoto does not teach or

suggest the recited features of claim 5/4/1 that are not found in Lavigne. It follows that the

combined references cannot produce the recited tapered step of claim 7.

Claim 8

Claim 8 depends from claim 5. The Action is silent as to what element in Iwamoto

constitutes the recited manual unlocking mechanism cylinder, and the projection rotatable in

engagement with the cylinder. Nor does Iwamoto teach or suggest the recited features. It

follows that the combined references would not have resulted in the recited invention of claim 8.

Claim 9

Claim 9 depends from claim 1. As previously discussed (Issue #2), Lavigne does not

teach the recited sensor nor the refrigerator/sensor/computer relationship. The Action is silent as

to where Iwamoto teaches or suggests the recited features and relationships. Nor does Iwamoto

teach or suggest the recited features and relationships. The Office has not established a *prima*

facie showing of obviousness. It follows that the combined references would not have resulted in

the recited invention of claim 9.

Claim 10

Claim 10 depends from claim 9. Neither of the references, taken alone or in combination,

teach or suggest a system for providing medical items having the recited relationships of a

refrigerator lock module, a movable lever, a catch, a pawl, a solenoid, where the catch can

engage the pawl and lever, where the pawl moves responsive to the door moving to an open position, and where a sensor can sense the position of the pawl. Where do the references teach or suggest, for example, an arrangement in which a sensor can sense opening of a refrigerator door via the positioning of a pawl? The Office has not established a *prima facie* showing of obviousness. Thus, even if it were somehow possible for the references to be combined as alleged, the combination still would not have resulted in the claimed invention.

The Pending Claims Are Not Obvious Over Lavigne in view of Genest

(Issue #23)

Claims 12-15 and 23 were rejected under 35 U.S.C. § 103(a) as obvious over Lavigne in view of Genest. These rejections are respectfully traversed.

The Action admits that Lavigne does not teach or suggest the features and relationships recited in claims 12-15 and 23.

Claim 12

Claim 12 depends from claim 1. Genest is directed to a system for providing medical items, where the system has a lock module operatively attached to a refrigerator. Genest is non-analogous art. Genest is directed to a lock (having a rotary latch wheel) for a hotel room (Col. 1, lines 11-22). The lock is actuable in response to both insertion of an appropriate data combination code from a first side of the lock and movement of a handle from a second side of the lock (Col. 1, lines 65-68). Genest's lock is not mounted in supporting connection with an external surface of a refrigerator. Where does Genest even mention a refrigerator? Nor does Genest's lock comprise a bolt that is capable of being in supporting connection with an external

surface of a refrigerator door. Rather, Genest's latch wheel (38) extends beyond the edge of the door to engage a keeper (46) secured to the door jamb (Col. 4, lines 46-62). Genest does not teach or suggest the features for which it was relied upon, especially at Col. 9, lines 22-30. The Office has not established a *prima facie* showing of obviousness. It follows that it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.

Claim 13

Claim 13 depends from claim 12. Neither of the references, taken alone or in combination, teach or suggest a bolt operatively attached to both the front surface and a side surface of a refrigerator door. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 14

Claim 14 depends from claim 12. Neither of the references, taken alone or in combination, teach or suggest a bolt attached to a refrigerator door through a bolt supporting bracket that renders the bolt inaccessible from outside the lock module. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 15

Claim 15 depends from claim 14. The references, taken alone or in combination, further do no teach or suggest a bolt supporting bracket having a cover that extends in overlying relation of fasteners. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 23

Claim 23 depends from claim 1. The references, taken alone or in combination, further do no teach or suggest a lock module including a retrofit assembly which is attached by fasteners to an exterior surface of a refrigerator. The Action is silent as to where Genest teaches or suggests the alleged lock module including a retrofit assembly. Again, the Office has not established a *prima facie* showing of obviousness. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention.
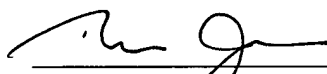
Response to Arguments

The Appellants respectfully disagree with the comments presented in paragraph 29 of the Action (on page 19). As shown above, support for claims 24 and 45 can be found in parent patent 5,790,409. The Action's comment regarding "refrigeration elements" is moot because a refrigerator is not recited in claims 24 and 45.

The Action's comment regarding a need to swear behind Colson '297 is without merit. As discussed in more detail above, Colson '297 does not include Appellants' recited features and relationships in at least claims 24 and 45. Colson '297 was not applied as anticipating claim 24. Thus, by inference the Office admits that Colson '297 does not teach the recited features and relationships of claim 24. Furthermore, Appellants have shown (Issue #6) that Colson '297 does not teach the recited features and relationships of claim 45. As Colson '297 does not teach the recited features, Appellants have no need to swear behind Colson '297.

CONCLUSION

As explained above, many of the rejections are improper as they are not based on references which constitute prior art. Further, each of the pending claims specifically recites features, relationships, and/or steps that are neither disclosed nor suggested in any of the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for combining features of the applied prior art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,

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APPENDIX

1.   A system for providing medical items comprising:

a computer, wherein the computer is in operative connection with a data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored;

a user interface in operative connection with the computer, wherein the interface includes an input device;

a refrigerator, wherein a storage location for at least one medical item is located in an interior area of the refrigerator, the refrigerator including a door, wherein access to the interior area is controlled by opening and closing the door;

a lock module operatively attached to the refrigerator, wherein the lock module is in operative connection with the computer, and wherein the lock module is operative responsive to a signal from the computer to change the lock module from a locked to an unlocked condition, wherein in the locked condition the refrigerator is prevented from being opened and in the unlocked condition the door is enabled to be opened;

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wherein responsive to a user inputting identification data through the input device

of the interface corresponding to the data representative of an authorized user

stored in the data store, the computer enables the user to input item indicia

corresponding to a medical item through the input device, and wherein the

computer is operative responsive to input of the item indicia to output the signal

changing the lock module to the unlocked condition.

2.   The system according to claim 1 and wherein the lock module further comprises a visual

indicator, and wherein the visual indicator provides an indication responsive to the signal that the

door is enabled to be opened.

3.   The system according to claim 1 and wherein the lock module further comprises a door

sensor, wherein the door sensor is operative to generate an open signal responsive to opening the

door, and wherein the computer is operative responsive to the open signal to change the lock

module to the locked condition, wherein when the door is next returned to a closed condition the

door is held therein.

4.   The system according to claim 1 wherein the lock module further comprises a manual

unlocking mechanism, and wherein the lock module is enabled to be changed to the unlocked

condition responsive to the manual unlocking mechanism.

5.   The system according to claim 4 wherein the lock module includes a movable lever, and

further comprising a catch, and wherein the lock module includes a pawl, wherein the catch is

engageable to hold the pawl in a first lever position and to release the pawl in a second lever

position, and wherein the pawl is operatively engageable with the door of the refrigerator, and

further comprising a solenoid in operative connection with the lever, and wherein the manual

unlocking mechanism is engageable with the lever, and wherein the lock module is changed to

the unlocked condition by either the unlocking mechanism or the solenoid moving the lever from

the first position to the second position.

6.   The system according to claim 5 wherein the lever is rotatably movable about a pivot, and

wherein the solenoid is engageable with the lever on a first side of the pivot and the manual

unlocking mechanism is engageable with the lever on a second side of the pivot.

7.   The system according to claim 5 wherein the catch includes a tapered step on the lever.

8.   The system according to claim 5 wherein the manual unlocking mechanism includes a

cylinder, and a projection rotatable in engagement with the cylinder, and wherein the projection

is engageable with the lever to move the lever to the second position.

9.   The system according to claim 1 and further comprising a sensor, wherein the sensor is

operative to sense opening of the refrigerator door, and wherein the sensor is operative to

generate an open signal responsive to opening the refrigerator door, and wherein the computer is

operative responsive to the open signal to store data representative of an event of opening the refrigerator door in the data store.

10.   The system according to claim 9 wherein the lock module includes a movable lever, and further comprising a catch, and wherein the lock module further includes a movable pawl, and wherein the lock module is held in the locked position when the catch engages the lever and pawl, and wherein the lock module further includes a solenoid, and wherein the solenoid is operative responsive to the signal to move the lever to disengage the catch, and wherein the pawl moves responsive to the door moving to the open position, and wherein the sensor is operative to sense the position of the pawl.

11.   The system according to claim 10 and further comprising a bolt in operative connection with the door, and wherein in the closed position of the door the bolt extends inside the lock module and operatively engages the pawl.

12.   The system according to claim 1 wherein the lock module is mounted in supporting connection with an external surface of the refrigerator, and further comprising a bolt in supporting connection with an external surface of the refrigerator door, and wherein in a closed position of the door the bolt extends inside the lock module.

13.   The system according to claim 12 wherein the refrigerator door includes a front surface and a side surface, and wherein the bolt is operatively attached to both the front surface and the

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side surface of the door.

14.   The system according to claim 12 wherein the bolt is attached to the door through a bolt supporting bracket, and wherein in the closed position of the door the bolt supporting bracket is adjacent the lock module so as to render the bolt inaccessible from outside the lock module.

15.   The system according to claim 14 wherein the bolt supporting bracket is operatively connected to the refrigerator door through fasteners, and wherein the bolt supporting bracket further includes a cover, wherein the cover extends in overlying relation of the fasteners.

16.   The system according to claim 1 wherein the input device includes a reading device, and wherein the item indicia is input through the reading device.

17.   The system according to claim 16 wherein the refrigerator includes machine readable indicia thereon, and wherein the item indicia is input by reading the machine readable indicia with the reading device.

18.   The system according to claim 16 and further comprising a report having machine readable indicia thereon, and wherein the item indicia is input by reading the machine readable indicia on the report.

19.   The system according to claim 18 and further comprising a printer in operative

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connection with the computer, wherein the computer is operative to cause the printer to print the report.

20.   The system according to claim 16 wherein the interior area of the refrigerator includes at least one machine readable indicia therein, whereby after opening the refrigerator door and taking the medical items stored therein a user is enabled to read the machine readable indicia, wherein the computer is operative responsive to the reading of the machine readable indicia to include data in the data store representative of the taking of the medical item from the interior area of the refrigerator.

21.   The system according to claim 1 wherein when the lock module is in the unlocked condition and the door is opened, the lock module returns to the locked condition upon the subsequent closing of the door.

22.   The system according to claim 9 wherein when the lock module is changed to the unlocked condition and the door is not opened for a time out period, the lock module returns to the locked condition, and wherein the computer is operative responsive to the lock module returning to the locked condition without the door having been opened to store data representative of the door not being opened in the data store.

23.   The system according to claim 1 wherein the lock module includes a retrofit assembly which is attached by fasteners to an exterior surface of the refrigerator.

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24. A system for providing medical items comprising:

a computer, wherein the computer is in operative connection with a data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored;

a user interface in operative connection with the computer, wherein the interface includes an input device;

a preexisting housing structure, wherein a storage location for at least one medical item is located in an interior area of the housing structure, the housing structure including a door, wherein access to the interior area is controlled by opening and closing the door.

a lock module mounted on an exterior surface of the housing structure, wherein the lock module is in operative connection with the computer, and wherein the lock module is operative responsive to a signal from the computer to change the lock module from a locked to an unlocked condition, wherein in the locked condition the door is prevented from being opened and in the unlocked condition the door is enabled to be opened;

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wherein responsive to a user inputting identification data through the input device of the interface corresponding to the data representative of an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to a medical item through the input device, and wherein the computer is operative responsive to input of the item indicia to output the signal changing the lock module to the unlocked condition.

25. The system according to claim 24 wherein the lock module further includes a door sensor in operative connection with the door and the computer, and a latching device wherein the latching device is operative to selectively maintain the lock module in the locked and unlocked conditions, wherein the latching device is operative to hold the lock module in the unlocked position responsive to the signal, and thereafter the computer is operative to cause the output of a further signal, wherein the further signal changes the lock module to a locked condition and thereafter the latching device holds the lock module in the locked condition, and wherein the computer is operative to cause the further signal to be output responsive to the earlier of at least one of the door sensor sensing opening of the door and the passage of a time delay period after output of the signal without the door sensor sensing opening of the door.

26. The system according to claim 25 wherein the latching device includes a permanent magnet latching solenoid.

27.   A method comprising the steps of:

attaching a lock module to a refrigerator, wherein the lock module selectively

enables accessing an interior area of the refrigerator;

placing a medical item in the interior area of the refrigerator;

storing in a data store data representative of a type associated with the medical

item placed in the interior area;

inputting through an input device an input corresponding to the type of medical

item stored in the interior area;

determining with a computer in operative connection with the data store, the lock

module and the input device, that the type of medical item corresponding to the

input is stored in the interior area;

generating a signal with the computer responsive to the determination that the

medical item is stored in the interior area;

enabling access to the interior area with the lock module responsive to the signal

generated by the computer.

28.   The method according to claim 27 wherein the refrigerator comprises a body and a door, and wherein the attaching step comprises attaching the lock module to an exterior surface of the body, and a bolt supporting bracket to a further exterior surface of the door, wherein the bolt supporting bracket is in operative connection with a bolt, and wherein in the enabling step the lock module releases the bolt.

29.   The method according to claim 28 wherein the attaching step further includes attaching the bolt supporting bracket to the further exterior surface of the door with at least one fastener, and then covering the fastener by installing a cover.

30.   The method according to claim 28 wherein the lock module further comprises a visual indicator, and further comprising the step of indicating with the visual indicator that the interior of the refrigerator is enabled to be accessed.

31.   The method according to claim 27 wherein the placing step further includes placing medical items in a plurality of storage locations, at least one of the locations being in the interior area and at least one other location being outside the interior area, and wherein the storing step includes storing data representative of the types of medical items stored respectively in the location in the interior area and in the other location.

32. The method according to claim 31 wherein in the placing step a first type of medical item is placed in the storage location in the interior area and a second type of medical item is placed in the other storage location, and prior to the inputting step further comprising the step of displaying on a display device indicia representative of both the first type of medical item and the second type of medical item.

33. The method according to claim 31 wherein the other location in which the second type of medical item is stored is in a dispenser, wherein the dispenser is in operative connection with the computer and the input device, and further comprising the steps of:

inputting through the input device a second input corresponding to the second type of medical item stored in the dispenser;

determining with the computer that the second type of medical item is stored in the dispenser;

generating a second signal with the computer responsive to the determination that the second type of medical item is stored in the dispenser;

dispensing the second type of medical item from the second location in the dispenser responsive to the second signal.

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34.   The method according to claim 27 and prior to the inputting step further comprising the step of labeling the refrigerator with a machine readable indicia corresponding to the interior area, and wherein the inputting step includes reading the machine readable indicia with a reading device.

35.   The method according to claim 34 wherein the machine readable indicia includes a bar code and the reading device includes a bar code scanner.

36.   The method according to claim 27 wherein access to the interior area is controlled by a refrigerator door, and further comprising the steps of:

    opening the refrigerator door, whereby the interior area is accessible;

    sensing with a sensor, in operative connection with the computer that the refrigerator door has been opened;

    further storing the data store data representative of the opening of the door.

37.   The method according to claim 36 wherein the storing step includes storing in the data store data representative of a plurality of authorized users, wherein the authorized users are authorized to access medical items in the interior area of the refrigerator, and prior to the enabling step further comprising the steps of:

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providing through an input device data representative of an authorized user;

comparing with the computer whether the data provided in the providing step corresponds to one of the authorized users, wherein in the absence of such correspondence the generating step, enabling step and opening step are not performed.

38. The method according to claim 37 wherein when in the comparing step the data corresponds to one authorized user, and the opening step is performed, the further storing step includes storing data representative of the one authorized user in correlated relation with the data representative of opening the door.

39. The method according to claim 27 and wherein the lock module further includes a manual unlocking mechanism, and after the enabling step further comprising the steps of:

preventing access to the interior area with the lock module;

manually actuating the unlocking mechanism on the lock module; and

accessing the interior area.

40. The method according to claim 39 wherein the lock module includes a lever movable about a pivot, wherein movement of the lever in a first rotational direction enables accessing the interior area, and wherein in the enabling step a first mechanism engages the lever on a first side of the pivot and moves the lever in the first direction, and wherein in the manually actuating step a second mechanism engages the lever on an opposed side of the pivot and moves the lever in the first direction.

41. The method according to claim 27 and further comprising the steps of:

accessing the interior area by opening a door;

sensing with a sensor that the door is open, wherein the sensor is in operative condition with the computer;

changing a condition of the lock module responsive to the sensor sensing that the door has been opened, wherein the door is held in a closed position by the lock module when the door is next closed.

42. The method according to claim 27 wherein access to the interior area is controlled by a door, and wherein the storing step includes storing in the data store data representative of a plurality of authorized users, wherein the authorized users are authorized to access medical items

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in the interior area of the refrigerator, and prior to the enabling step further comprising the steps of:

provding through an input device data representative of an authorized user;

comparing with the computer whether the data provided in the providing step corresponds to one of the authorized users, the enabling step being performed responsive to the data corresponding to one of the authorized users;

sensing with a sensor in operative connection with the computer that the door has not been opened;

generating a further signal with the computer a time period after the door is enabled to be opened responsive to the sensor not sensing opening of the door, wherein the further signal is operative to cause the lock module to hold the door in a closed position.

43.   The method according to claim 42 and further comprising the step of storing in the data store data representative of the door being enabled to open by the one authorized user, and not being opened.

44. A method comprising the steps of:

attaching a lock module to a preexisting housing structure, wherein the lock

module selectively enables accessing an interior area of the housing structure;

placing a medical item in the interior area of the housing structure;

storing in a data store data representative of a type associated with the medical

item placed in the interior area;

inputting through an input device an input corresponding to the type of medical

item stored in the interior area;

determining with a computer in operative connection with the data store, the lock

module and the input device, that the type of medical item corresponding to the

input is stored in the interior area;

generating a signal with the computer responsive to the determination that the

medical item is stored in the interior area;

enabling access to the interior area with the lock module responsive to the signal

generated by the computer.

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45. A system for providing medical items comprising:

a computer, wherein the computer is in operative connection with a data store, wherein the data store includes user data representative of a plurality of authorized users, item data representative of a plurality of medical items, and location data representative of storage locations in which the medical items are stored;

a user interface in operative connection with the computer, wherein the interface includes at least one input device;

a housing, wherein a storage location for at least one medical item is located in an interior area of the housing, the housing including a door, wherein access to the storage location is controlled by opening and closing the door;

a lock in operative connection with the housing, wherein the lock is in operative connection with the computer, and wherein the lock is operative responsive to at least one signal from the computer to change the lock from a locked to an unlocked condition, wherein in the locked condition the door is prevented from being opened and in the unlocked condition the door is enabled to be opened;

wherein responsive to a user inputting through the at least one input device identification data corresponding to data for an authorized user stored in the data store, the computer enables the user to input item indicia corresponding to a medical item through the at least one input device, and wherein the computer is operative responsive to input of the item indicia to output the at least one signal changing the lock to the unlocked condition.

46. The system according to claim 45 and wherein the lock further comprises a visual indicator, and wherein the visual indicator provides an indication responsive to the at least one signal that the door is enabled to be opened.

47. The system according to claim 45 and wherein the lock further comprises a door sensor, wherein the door sensor is operative to generate an open signal responsive to opening the door, and wherein the computer is operative responsive to the open signal to change the lock to the locked condition, wherein when the door is next returned to a closed condition the door is held therein.